

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 230

INTRODUCER: Senator Harrell

SUBJECT: Health Care Practitioner Titles and Abbreviations

DATE: February 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Pre-meeting
2.			RC	

I. Summary:

SB 230 creates s. 456.0393, F.S., which defines “advertisement” and “deceptive or misleading terms or false representation,” for health care practitioners and specifies which titles and abbreviations health care practitioners may use in their advertisements, communications, and personal identification.

The bill requires health care practitioners to identify themselves in a specified manner when treating patients. The bill creates grounds for disciplinary action and denial of license and authorizes each practitioner regulatory board,¹ or the Department of Health (DOH) if there is no board, to adopt rules to implement the bill’s provisions.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Licensure and Regulation of Health Care Practitioners

The Division of Medical Quality Assurance (MQA), within the DOH, has general regulatory authority over health care practitioners.² The MQA works in conjunction with 22 regulatory boards and four councils to license and regulate seven types of health care facilities and more

¹ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH’s Division of Medical Quality Assurance (MQA).

² Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, genetic counselors, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

than 40 health care professions.³ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA. The MQA is statutorily responsible for the following boards and professions established within the division:⁴

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part I of ch. 483, F.S.;
- Medical physicists, as provided under part II of ch. 483, F.S.;
- Genetic Councilors as provided under part III of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. The DOH

³ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2021-2022*, p. 5, <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Feb. 10, 2023).

⁴ Section 456.001(4), F.S.

receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.⁵ Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel which may include:⁶

- Issuing an Emergency Order;
- Having the file reviewed by an expert;
- Issuing a closing order; or
- Filing an administrative complaint.

The boards determine the course of action and any disciplinary action to take against a practitioner.⁷ For professions in which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.⁸ The DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.⁹ If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.¹⁰

The different DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH takes on the disciplinary functions of a board only for practitioner types that do not have a board. The DOH itself takes no final disciplinary action against practitioners for which there is a board.

Board Certification and Florida Licensure

The DOH does not license health care practitioners by specialty or subspecialty; rather, practitioners become board-certified in specialties by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.¹¹

Prohibitions

Current law limits which health care practitioners may hold themselves out as board-certified specialists. An allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board

⁵ Department of Health, *Investigative Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html> (last visited Feb. 10, 2023).

⁶ Department of Health, *Prosecution Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html> (last visited Feb. 10, 2023).

⁷ Section 456.072(2), F.S.

⁸ Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors and school psychologists.

⁹ *Supra*, note 6.

¹⁰ *Id.*

¹¹ Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

of the ABMS or other recognizing agency¹² approved by the Board of Medicine.¹³ Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency¹⁴ approved by the board.¹⁵ In addition, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.¹⁶

A podiatric physician also may not advertise that he or she is board certified unless the organization is approved by the Board of Podiatric Medicine (BPM) for the purposes of advertising only and the name of the organization is identified in full in the advertisement. In order for an organization to obtain the BPM approval it must be the American Podiatric Medical Association, the National Council of Competency Assurance, or an organization that must:

- Be composed of podiatric physicians interested in a special area of practice demonstrated through successful completion of examinations or case reports;
- Subscribe to a code of ethics;
- Have rules and procedures for maintaining a high level of professional conduct and discipline among its membership;
- Have an active membership of at least seventy-five (75);
- Sponsor annual meeting and courses in Board approved continuing education; and
- Be a national organization in scope and give a certification examination at least once a year before the podiatric physician can advertise possession of the certification.¹⁷

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:¹⁸

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- Is a diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.¹⁹

¹² The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. See Fla. Admin. Code R. 64B8-11.001(1)(f),(2022).

¹³ Section 458.3312, F.S.

¹⁴ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Fla. Admin. Code R. 64B15-14.001(h),(2022).

¹⁵ Section 459.0152, F.S.

¹⁶ *Id.*

¹⁷ Fla. Admin. Code R. 64B18-14.004 (2022).

¹⁸ Section 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

¹⁹ Section 466.0282(3), F.S.

By rule, the Board of Chiropractic Medicine (BCM) prohibits chiropractors from using deceptive, fraudulent, and misleading advertising. However, the BCM permits chiropractors to advertise that he or she has attained diplomate status in a chiropractic specialty area recognized by the BCM. BCM specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.²⁰

Section 464.015, F.S., specifies the titles and abbreviations that only nurses may professionally use, based on the type of license they have obtained as follows:

- Registered Nurse and the abbreviation R.N.;
- Licensed Practical Nurse and the abbreviation L.P.N.;
- Graduate Nurse and the abbreviation G.N.;
- Graduate Practical Nurse and the abbreviation G.P.N.;
- Clinical Nurse Specialist and the abbreviation C.N.S.;
- Certified Registered Nurse Anesthetist, nurse anesthetist and the abbreviation C.R.N.A.;
- Advanced Practice Registered Nurse and the abbreviation A.P.R.N.; and
- Certified Nurse Midwife, nurse midwife, and the abbreviation C.N.M.

Section 464.015, F.S., further prohibits any person from practicing or advertising as, or assume the title of registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or advanced practice registered nurse, or using the abbreviation R.N., L.P.N., C.N.S., C.R.N.A., C.N.M., C.N.P., or A.P.R.N., or taking any other action that would lead the public to believe that a person is authorized to practice. To do so is punishable as a first degree misdemeanor under ss. 775.082 or 775.083, F.S.

Section 465.016, F.S., makes using the name or title Nurse, Registered Nurse, Licensed Practical Nurse, Clinical Nurse Specialist, Certified Registered Nurse Anesthetist, Certified Nurse Practitioner, Certified Nurse Midwife, Advanced Practice Registered Nurse, or any other name or title which implies that a person was licensed or certified as the same, unless that person is duly licensed or certified, a third degree felony.

Additionally, an APRN may not advertise or hold himself or herself out as a specialist for which he or she has not received a certification.²¹

In 2019 the Board of Nursing (BON) considered a Petition for Declaratory Statement²² from an A.P.R.N., who was also a C.R.N.A., requesting that he be permitted to use the phrase “nurse

²⁰ Fla. Admin. Code R. 64B2-15.001(2)(e), (2022). Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.

²¹ Section 464.018(1)(s), F.S.

²² Section 120.565, F.S. Provides that, “[a]ny substantially affected person may seek a declaratory statement regarding an agency’s opinion as to the applicability of a statutory provision as it applies to the petitioner’s particular set of circumstances. The agency must give notice of the filing of a petition in the Florida Administrative Register, provide copies of the petition to the board, and issue a declaratory statement or deny the petition within 90 days after the filing. The declaratory statement or denial of the petition is then noticed in the next Florida Administrative Register, and disposition of a petition is a final agency action.”

anesthesiologist” as a descriptor for him or his practice and that the BON not subject him to discipline under ss. 456.072 and 464.018, F.S.²³ The BON approved the Petition for Declaratory Statement and this individual, under current law, can use the title of “nurse anesthesiologist.”²⁴

Physician assistants (PAs) certified by the National Commission on Certification of Physician Assistants (NCCPA) may claim certification and they are the only PAs who may use the abbreviation PA-C. PAs are permitted to advertise so long as the information is in no way false, deceptive, or misleading and does not claim any type of specialty board certification, and the advertisement discloses the name of the PA’s primary supervising physician.²⁵

An anesthesiologist assistant is subject to a citation and \$250.00 fine if he or she does not clearly identify him or herself as an anesthesiologist assistant.²⁶ He or she is also subject to discipline for false, deceptive, or misleading advertising and for deceptive, untrue, or fraudulent representations in his or her practice.²⁷

Similarly, most other health care practitioner practice acts, and/or board rules, contain prohibitions against false, deceptive, or misleading advertising or fraudulent representations in the practice, or both.²⁸

Health Care Practitioners: Specialty Designations

Section 456.072, F.S., authorizes a regulatory board or the DOH, if there is no board, to discipline a health care practitioner’s licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee’s profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

If a board or the DOH finds that a licensee committed a violation of a statute or rule, the board or the DOH may:²⁹

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee’s practice or license;

²³ *Petition for Declaratory Statement Before the Board of Nursing, In re: John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, July 10, 2019 (on file with the Senate Committee on Health Policy).

²⁴ The Florida Board of Nursing, Meeting Minutes, Disciplinary Hearings & General Business, *Declaratory Statements*, No. 2, Aug. 8, 2019, available at <https://floridasnursing.gov/meetings/minutes/2019/08-august/08072019-minutes.pdf> p. 28 (last visited Feb. 14, 2023).

²⁵ Fla. Admin. Code R. 64B8-30.0111, (2022).

²⁶ Fla. Admin. Code R. 64B8-31.009(3)(f), (2022).

²⁷ Fla. Admin. Code R. 64B8-31.010(d) and (k) (2022).

²⁸ *See Pharmacist*, Fla. Admin. Code R. 64B16-3001(2)(u), (2022); *Acupuncture*, Fla. Admin. Code R. 64B1-9.001(d) and (k), (2022); *Athletic Trainer*, Fla. Admin. Code R. 64B33-5.001(4)(a) and (e), (2022).

²⁹ Section 456.072(2), F.S.

- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

III. Effect of Proposed Changes:

SB 230 creates s. 456.0393, F.S., which defines advertisement as any communication, printed, electronic, or oral, that names a health care practitioner and the practice, profession, or institution in which the practitioner is employed, volunteers, or otherwise provides health care services. The term includes business cards, identification badges, letterhead, patient brochures, e-mails, Internet websites or platforms, audio and video communications, text messages, and any other form of communication. Any advertisement by a health care practitioner must disclose the type of license under which the health care practitioner is authorized to provide services and must use only those titles and abbreviations authorized by the bill. Only physicians may include titles and abbreviations or medical specialties in their advertisements.

The bill defines deceptive or misleading terms or false representation as the use of titles, terms, or other words that misstate, falsely describe, falsely hold out, or falsely detail the health care practitioner's professional skills, training, expertise, education, board certification, or licensure, and includes the misappropriation of medical titles and medical specialty titles by nonphysicians. The bill prohibits health care practitioners may not use deceptive or misleading terms or false representation in their advertisements.

The bill specifies which titles and abbreviations health care practitioners may use in advertisements, communications and personal identification. Physicians licensed under chs. 458 and 459, F.S., may use only the following as applicable to their license, specialties, and certifications:

- Doctor;
- Physician;
- Surgeon;
- Doctor of medicine, M.D.;
- Doctor of osteopathic medicine, osteopath, D.O.;
- General surgeon;
- Neurosurgeon;
- Orthopedic surgeon;
- Medical resident;
- Resident physician;
- Medical intern;
- Anesthesiologist;
- Cardiologist;
- Dermatologist;

- Endocrinologist;
- Gastroenterologist;
- General practitioner;
- Gynecologist;
- Hematologist;
- Hospitalist;
- Intensivist;
- Internist;
- Interventional pain medicine physician;
- Laryngologist;
- Nephrologist;
- Neurologist;
- Obstetrician;
- Oncologist;
- Ophthalmologist;
- Orthopedic surgeon;
- Orthopedist;
- Otologist;
- Otolaryngologist;
- Otorhinolaryngologist;
- Pathologist;
- Pediatrician;
- Primary care physician;
- Proctologist;
- Psychiatrist;
- Radiologist;
- Rheumatologist;
- Rhinologist; and
- Urologist.

In addition, physicians licensed under chs. 458 and 459, F.S., may use any other title, word, abbreviation, description of services, or designation, alone or in combination with any other title, to indicate to others the specialty he or she is licensed to practice.

The bill permits podiatric physicians to use any of the following titles and abbreviations as applicable to their license, specialties, and certifications: podiatric physician, doctor of podiatric medicine, D.P.M., podiatrist, podiatric surgeon, Fellow in the American College of Foot and Ankle Surgeons, and F.A.C.F.A.S.

The bill allows chiropractic physicians to use the titles chiropractic physician and “doctor of chiropractic medicine. and the abbreviation D.C.A chiropractic physician who has attained diplomate status in a chiropractic specialty recognized by the American Chiropractic Association, the International Chiropractic Association, or the International Academy of Clinical Neurology may also use his or her applicable diplomate titles in conjunction with his or her name and title to reflect the specialty area.

The bill allows dentists to use the titles and abbreviations applicable to their license, specialties, and certifications including: doctor of medicine in dentistry, doctor of dental medicine, D.M.D., doctor of dental surgery, D.D.S., oral and maxillofacial surgeon, O.M.S., periodontist, prosthodontist, endodontist, pediatric dentist, orthodontist, oral pathologist, and oral radiologist. A dentist who has completed a dental anesthesiology residency recognized by the American Dental Board of Anesthesiology before July, 2025, may also use the titles applicable to dentists in conjunction with his or her name and title to reflect that residency training.

SB 230 authorizes nurses licensed under part I, Ch. 464 , F.S., to use only the following titles and abbreviations based on their level of nursing education and licensure:

- Licensed practical nurses, L.P.N.;
- Registered nurse, R.N.,
- Advanced practice registered nurses, A.P.R.N. and the following role titles and abbreviations, as applicable:
 - Certified registered nurse anesthetist, C.R.N.A.;
 - Clinical nurse specialist, C.N.S.;
 - Certified nurse practitioner, C.N.P.;
 - Certified nurse midwife, C.N.M.,
 - Certified psychiatric nurse, psychiatric mental health advanced practice nurse, C.P.N.;
 - Autonomous advanced practice registered nurse, A.-A.P.R.N.

Under the bill, physician assistants may use only the title “physician assistant” and the abbreviations P.A. or P.A.-C.; and anesthesiologist assistants may use only the titles anesthesiologist assistant, and certified anesthesiologist assistant, and the abbreviation “C.A.A.

All other health care practitioners may only use the titles and abbreviations authorized by their respective practice acts or the bill. The bill authorizes nonphysician health care practitioners who have obtained a doctoral degree under the profession governed by the applicable practice act to use the letter “D.” in front of the abbreviations authorized by their practice act. However, a nonphysician health care practitioner may not use the title “doctor” in any form of advertisement, telehealth interaction, text message, or verbal communication without clearly identifying himself or herself as a “doctor” of a specific profession, citing the applicable chapter under which the health care practitioner is licensed.

The bill requires health care practitioners who treat patients in person to wear a name badge or other form of identification on their clothing that clearly discloses the practitioner’s name, the practitioner’s staff position, if any, and the type of license, registration, or certification held by the practitioner. Any title or abbreviation used in the identification must be consistent with the requirements of the bill. If a health care practitioner treats patients in a setting other than a health care facility licensed under chs. 395 or 400, F.S., the health care practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license.

Any violation of the bill’s provisions constitute grounds for the denial of a license or disciplinary action under the health care practitioner’s respective practice act and under s. 456.072(2), F.S.

The bill authorizes each board, or the DOH where there is no board, to adopt rules to implement the provisions of the bill.

The bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

At line 70 the language “*or osteopathic medicine*” should be added at the end of the sentence as paragraph (2)(a) of the bill applies to both allopathic (medical) and osteopathic physicians.

VII. Related Issues:

The bill's permissive use of the letter "D." *in front of* the abbreviations that a nonphysician health care practitioner, who have obtained a doctoral degree may use, may need to be amended to include *or behind the abbreviations* to accurately reflect current standard abbreviations for some of the DOH licensed nonphysician health care practitioners, such as a person with a Ph.D. in pharmacy (Pharm. D.), optometry (O.D.), audiology (Au.D.), or psychology (Psy.D.).

VIII. Statutes Affected:

This bill creates section 456.0393 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.