

BILL NO. 29-0235

Twenty-Ninth Legislature Of The Virgin Islands

November 23, 2011

An Act amending title 27, chapter 1, subchapter 1 of the Virgin Islands Code by establishing guidelines for advertising and communication by health care professional service providers

PROPOSED BY: Senator Sammuel Sanes

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 SECTION 1. Title 27, chapter 1, subchapter 1 of the Virgin Islands Code is amended by
3 adding a new section 19 to read as follows:

4 “§ 19. **Truth in health care professional services**

5 (a) *Short title.* This section may be cited as the ‘Truth in Health Care Professional
6 Services Act’.

7 (b) *Purpose.* The Legislature of the Virgin Islands hereby finds and declares that:

8 (1) There are widespread differences regarding the training and
9 qualifications required to earn professional degrees and these differences often
10 concern the training and skills necessary to correctly detect, diagnose, prevent, and
11 treat illnesses or health care conditions.

1 (2) There is a compelling government interest in patients being promptly
2 and clearly informed of the training and qualifications of the health care
3 professionals who provide health care services.

4 (3) There is a compelling government interest in the public being protected
5 from potentially misleading and deceptive health care advertising that might cause
6 patients to have undue expectations regarding their treatment and outcome.

7 (c) *Definitions.* For the purposes of this section:

8 ‘Advertisement’ means any communication or statement, whether printed, electronic, or
9 oral, that names the health care professional in relation to his or her practice, profession, or
10 institution in which the individual is employed, volunteers, or otherwise provides health care
11 services. This includes business cards, letterheads, patient brochures, e-mail, internet, audio, and
12 video, and any other communication or statement used in the course of business.

13 ‘Deceptive’ or ‘misleading’ includes, any advertisement or affirmative communication or
14 representation for health care services that misstates, falsely describes, or falsely represents the
15 health care professional’s skills, training, expertise, education, board certification, or licensure.

16 ‘Health care professional’ means any person who treats human ailments and is subject to
17 licensure or regulation by the government, including students and residents.

18 ‘Licensee’ means a health care professional who holds an active license with the licensing
19 board governing his or her practice in the Territory.

20 (d) *Requirements.*

21 (1) An advertisement for health care services must identify the type of
22 license held by the health care professional advertising or providing services
23 pursuant to the definitions, titles, and initials authorized under his or her licensing
24 statute or examination designations required for licensure under the professional’s
25 licensing statute. The advertisement shall be free from any and all deceptive or
26 misleading information.

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(2) A health care professional providing health care services in the Territory must conspicuously post and affirmatively communicate the professional’s specific licensure by doing the following:

(A) The health care professional shall wear a name tag during all patient encounters that clearly identifies the type of license held by the health care professional, unless precluded by adopted sterilization or isolation protocols. The name tag shall be of sufficient size and be worn in a conspicuous manner so as to be visible and apparent.

(B) If the health care professional has an office in which he or she sees current or prospective patients, then the health care professional shall display in his or her office a writing that clearly identifies the type of license held by the health care professional. The writing must be of sufficient size so as to be visible and apparent to all current and prospective patients.

(C) The health care professional must only use the licensure titles or initials authorized by the professional’s licensing statute, examination designations required for licensure under the professional’s licensing statute, or the titles authorized by the professional licensing statute for students in training.

(3) A health care professional who practices in more than one practice setting shall comply with these requirements in each practice setting.

(4) Health care professionals working in non-patient care settings, and who do not have any direct patient care interactions, are not subject to the provisions of subsections (d)(2) and (d)(3) of this section.

(5) Under this section, a health care professional who is a student or

1 resident and does not have a government license shall only be required to wear a
2 name tag that clearly identifies himself or herself by name and as a student or
3 resident, as authorized by the professional licensing statute.

4 (e) *Violations and enforcement.*

5 (1) Failure to comply with any provision under this section shall constitute
6 a violation under this section.

7 (2) Each day this section is violated shall constitute a separate offense and
8 shall be punishable as such.

9 (3) Any health care professional who violates any provision of this Act is
10 guilty of unprofessional conduct and subject to disciplinary action under the
11 appropriate provisions of the specific statute governing that health care profession.

12 (f) *Effective date.* This section takes effect ninety (90) days after enactment.

13 **BILL SUMMARY**

14 This bill amends title 27, chapter 1, subchapter 1 of the Virgin Islands code by establishing
15 guidelines for advertising and communication by health care professional service providers.
16 Subsection (a) designates the short title for the section. Subsection (b) declares the purpose of the
17 section. Subsection (c) specifies definitions applicable in the section. Subsection (d) enumerates
18 the requirements of the section. Subsection (e) indicates the penalties for violations of the section.
19 Subsection (f) establishes the effective date of the section.

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21 **BR11-0819/October 4, 2011/ EEM/Reviewed by TF**
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