

By: Allison

H.B. No. 2324

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of certain health professionals and  
3 health facilities; providing civil and administrative penalties;  
4 creating a criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 241.009, Health and Safety Code, is  
7 amended by amending Subsections (b) and (c) and adding Subsection  
8 (d) to read as follows:

9 (b) A hospital licensed under this chapter shall adopt a  
10 policy requiring a health care provider providing direct patient  
11 care at the hospital to wear a photo identification badge during all  
12 patient encounters, unless precluded by adopted isolation or  
13 sterilization protocols. The badge must be of sufficient size and  
14 worn in a manner to be visible and must clearly state:

15 (1) at minimum the provider's first or last name;

16 (2) the department of the hospital with which the  
17 provider is associated;

18 (3) only the type of license held by the provider as  
19 prescribed by Subsection (c), if the provider holds a license under  
20 Title 3, Occupations Code; and

21 (4) if applicable, the provider's status as a student,  
22 intern, trainee, or resident.

23 (c) For purposes of Subsection (b)(3), the identification  
24 badge of a health care provider licensed under Title 3, Occupations

1 Code, must clearly state only the following designations for which  
2 the health care provider holds a license:

3 (1) "physician," if the provider holds a license under  
4 Subtitle B of that title;

5 (2) "chiropractor," "podiatrist," "midwife,"  
6 "physician assistant," "acupuncturist," or "surgical assistant,"  
7 as applicable, if the provider holds a license under Subtitle C of  
8 that title;

9 (3) "dentist" or "dental hygienist," as applicable, if  
10 the provider holds a license under Subtitle D of that title;

11 (4) "licensed vocational nurse," "registered nurse,"  
12 "advanced practice registered nurse [~~practitioner~~]," "nurse  
13 midwife," "certified registered nurse anesthetist," or "clinical  
14 nurse specialist," as applicable, if the provider holds a license  
15 under Subtitle E of that title;

16 (5) "optometrist," or "therapeutic optometrist," as  
17 applicable, if the provider holds a license under Subtitle F of that  
18 title;

19 (6) "speech-language pathologist," [~~pathologist~~ or]  
20 "audiologist," "hearing instrument fitter and dispenser,"  
21 "licensed dyslexia practitioner," or "licensed dyslexia  
22 therapist," as applicable, if the provider holds a license under  
23 Subtitle G of that title;

24 (7) "athletic trainer," "physical therapist,"  
25 "occupational therapist," or "massage therapist," as applicable,  
26 if the provider holds a license under Subtitle H of that title;

27 (8) "medical radiologic technologist," "medical

1 physicist," "perfusionist," "respiratory care practitioner,"  
2 "orthotist," or "prosthetist," as applicable, if the provider holds  
3 a license or certificate, as appropriate, under Subtitle K of that  
4 title; and

5 (9) "dietitian," if the provider holds a license under  
6 Subtitle M of that title.

7 (d) For purposes of Subsection (b)(4), a person may not use  
8 the title "resident" unless the person is a graduate of a medical  
9 school and receiving graduate medical training.

10 SECTION 2. Section 241.0585, Health and Safety Code, is  
11 amended to read as follows:

12 Sec. 241.0585. RECOVERY OF COSTS. If the attorney general  
13 brings an action to collect a civil penalty authorized under or to  
14 enforce an administrative penalty assessed under this subchapter  
15 ~~[Section 241.058]~~ and the court orders the payment of the penalty,  
16 the attorney general may recover reasonable expenses incurred in  
17 the investigation, initiation, or prosecution of the enforcement  
18 suit, including investigative costs, court costs, reasonable  
19 attorney fees, witness fees, and deposition expenses.

20 SECTION 3. Section 241.059(b), Health and Safety Code, is  
21 amended to read as follows:

22 (b) In determining the amount of the penalty, the department  
23 shall consider:

- 24 (1) the hospital's previous violations;  
25 (2) the seriousness of the violation;  
26 (3) any threat to the health, safety, or rights of the  
27 hospital's patients;

- (4) the demonstrated good faith of the hospital;
- (5) the amount necessary to deter a future violation;
- (6) the efforts to correct the violation; and
- (7) [~~(5)~~] such other matters as justice may require.

SECTION 4. Subchapter D, Chapter 254, Health and Safety Code, is amended by adding Section 254.161 to read as follows:

Sec. 254.161. PHOTO IDENTIFICATION BADGE REQUIRED. A facility shall adopt a policy requiring a health care provider, as defined by Section 241.009(a), providing direct patient care at the facility to wear a photo identification badge in the manner and containing the information required by Section 241.009.

SECTION 5. Section 254.206(d), Health and Safety Code, is amended to read as follows:

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty. The attorney general may recover reasonable expenses incurred in the investigation, initiation, or prosecution of the enforcement suit, including investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition expenses.

SECTION 6. Subchapter E, Chapter 254, Health and Safety Code, is amended by adding Section 254.208 to read as follows:

Sec. 254.208. CIVIL PENALTY: PHOTO IDENTIFICATION REQUIREMENT. (a) A facility that violates Section 254.161 is liable to the state for a civil penalty not to exceed \$1,000 for each day the violation continues.

(b) The attorney general, a district or county attorney, or

1 a municipal attorney may sue to collect the penalty and may recover  
2 reasonable expenses incurred in obtaining relief under this  
3 section, including court costs, reasonable attorney's fees,  
4 investigation costs, witness fees, and deposition expenses.

5 SECTION 7. The heading to Subchapter E, Chapter 101,  
6 Occupations Code, is amended to read as follows:

7 SUBCHAPTER E. CERTAIN PRACTICES RELATED TO ADVERTISING AND BILLING  
8 PROHIBITED [~~GROUND FOR LICENSE REVOCATION OR DENIAL~~]

9 SECTION 8. Section 101.201, Occupations Code, is amended by  
10 amending Subsection (b) and adding Subsections (c) and (d) to read  
11 as follows:

12 (b) False, misleading, or deceptive advertising or  
13 advertising not readily subject to verification includes  
14 advertising that:

15 (1) makes a material misrepresentation of fact or  
16 omits a fact necessary to make the statement as a whole not  
17 materially misleading;

18 (2) makes a representation likely to create an  
19 unjustified expectation about the results of a health care service  
20 or procedure;

21 (3) compares a health care professional's services  
22 with another health care professional's services unless the  
23 comparison can be factually substantiated;

24 (4) contains a testimonial;

25 (5) causes confusion or misunderstanding as to the  
26 credentials, education, or licensing of a health care professional,  
27 including using a title, term, or other words that misstate,

1 falsely describe, falsely hold out, or falsely detail the health  
2 care professional's:

3 (A) professional skills;

4 (B) training;

5 (C) expertise;

6 (D) educational degree;

7 (E) specialty certification; or

8 (F) licensure;

9 (6) represents that health care insurance deductibles  
10 or copayments may be waived or are not applicable to health care  
11 services to be provided if the deductibles or copayments are  
12 required;

13 (7) represents that the benefits of a health benefit  
14 plan will be accepted as full payment when deductibles or  
15 copayments are required;

16 (8) makes a representation that is designed to take  
17 advantage of the fears or emotions of a particularly susceptible  
18 type of patient; or

19 (9) represents in the use of a professional name a  
20 title or professional identification that is associated with  
21 another profession and the health care professional is not licensed  
22 or otherwise authorized to practice that profession [~~expressly or~~  
23 ~~commonly reserved to or used by another profession or~~  
24 ~~professional~~].

25 (c) For purposes of this section, advertising that does not  
26 include the name of the health care professional and the  
27 professional identification required by Section 104.003 is

1 considered false, misleading, deceptive, or not readily subject to  
2 verification.

3 (d) In this section, "advertising" includes:

4 (1) any printed, electronic, or oral statement, with  
5 respect to the provision of health care services by a health care  
6 professional:

7 (A) that is communicated or disseminated to the  
8 public;

9 (B) that:

10 (i) is intended to encourage a person to use  
11 the professional's services; or

12 (ii) for a commercial purpose, names the  
13 professional in connection with the practice, profession, or  
14 institution in which the professional provides health care  
15 services; and

16 (C) the preparation, communication, or  
17 dissemination of which is controlled by the professional or a group  
18 to which the professional is affiliated; and

19 (2) any communication or statement not described by  
20 Subdivision (1) but that is used in the regular course of the  
21 professional's business for the purpose of promoting the  
22 professional's services to the public, including:

23 (A) business cards;

24 (B) letterhead;

25 (C) signs;

26 (D) pamphlets;

27 (E) brochures;

1                   (F) e-mails and any other communication or  
2 statement transmitted through the internet; or

3                   (G) audio or video communications, including  
4 television or radio advertisements.

5           SECTION 9. Section 104.003, Occupations Code, is amended by  
6 amending Subsections (b) and (c) and adding Subsection (h) to read  
7 as follows:

8           (b) A person who is licensed by the Texas Medical [~~State~~]  
9 Board [~~of Medical Examiners~~] and holds a doctor of medicine degree  
10 shall use:

11                   (1) physician or surgeon, M.D.;

12                   (2) doctor, M.D.; [~~or~~]

13                   (3) doctor of medicine, M.D.; or

14                   (4) a designation indicating that the person is  
15 certified or eligible for certification, as applicable, by a  
16 certifying board of the American Board of Medical Specialties or a  
17 successor organization.

18           (c) A person who is licensed by the Texas Medical [~~State~~]  
19 Board [~~of Medical Examiners~~] and holds a doctor of osteopathy  
20 degree shall use:

21                   (1) physician or surgeon, D.O.;

22                   (2) osteopathic physician or surgeon;

23                   (3) doctor, D.O.;

24                   (4) doctor of osteopathy;

25                   (5) doctor of osteopathic medicine;

26                   (6) osteopath; [~~or~~]

27                   (7) D.O.; or



1           (8) a designation indicating that the person is  
2 certified or eligible for certification, as applicable, by a  
3 certifying board of the American Osteopathic Association or a  
4 successor organization.

5           (h) Unless another provision of this title specifies  
6 another designation, the person shall use only the following  
7 designations for each healing art the person is licensed to  
8 practice:

9           (1) "midwife," "physician assistant,"  
10 "acupuncturist," or "surgical assistant," as applicable, if the  
11 person holds a license under Subtitle C;

12           (2) "dental hygienist," if the person holds a license  
13 to practice dental hygiene issued under Chapter 256;

14           (3) "licensed vocational nurse," "registered nurse,"  
15 "advanced practice registered nurse," "nurse midwife," "certified  
16 registered nurse anesthetist," or "clinical nurse specialist," as  
17 applicable, if the person holds a license under Subtitle E;

18           (4) "speech-language pathologist," "audiologist,"  
19 "hearing instrument fitter and dispenser," "licensed dyslexia  
20 practitioner," or "licensed dyslexia therapist," as applicable, if  
21 the person holds a license under Subtitle G;

22           (5) "athletic trainer," "physical therapist,"  
23 "occupational therapist," or "massage therapist," as applicable,  
24 if the person holds a license under Subtitle H;

25           (6) "psychologist," "psychological associate,"  
26 "marriage and family therapist," "marriage and family therapist  
27 associate," "professional counselor," "counselor," "chemical

1 dependency counselor," "social worker," "behavioral analyst," or  
2 "assistant behavioral analyst," as applicable, if the person holds  
3 a license under Subtitle I;

4 (7) "medical radiologic technologist," "medical  
5 physicist," "perfusionist," "respiratory care practitioner,"  
6 "orthotist," or "prosthetist," as applicable, if the person holds a  
7 license or certificate, as appropriate, under Subtitle K; and

8 (8) "dietitian," if the person holds a license under  
9 Chapter 701.

10 SECTION 10. Chapter 104, Occupations Code, is amended by  
11 adding Section 104.0035 to read as follows:

12 Sec. 104.0035. FALSE AND DECEPTIVE ADVERTISING. A healing  
13 art practitioner may not use advertising that is false, misleading,  
14 or deceptive, or not readily subject to verification as provided by  
15 Section 101.201.

16 SECTION 11. Section 104.005(a), Occupations Code, is  
17 amended to read as follows:

18 (a) On the request of a healing art licensing board that  
19 issues a license, certificate, or other authorization described by  
20 [~~listed in~~] Section 104.003, the district or county attorney shall  
21 file and prosecute appropriate judicial proceedings in the name of  
22 the state against a person who violates Section 104.003.

23 SECTION 12. The heading to Section 104.007, Occupations  
24 Code, is amended to read as follows:

25 Sec. 104.007. CRIMINAL PENALTIES.

26 SECTION 13. Chapter 104, Occupations Code, is amended by  
27 adding Section 104.008 to read as follows:

1       Sec. 104.008. ADMINISTRATIVE PENALTY. (a) A healing art  
2 licensing board that issues a license, certificate, or other  
3 authorization described by Section 104.003, may impose an  
4 administrative penalty on a person who:

5           (1) holds a license, certificate, or other  
6 authorization issued by the healing art licensing board; and

7           (2) violates this chapter.

8       (b) The amount of an administrative penalty may not exceed  
9 \$1,000 for each violation. Each day a violation continues or occurs  
10 is a separate violation for purposes of imposing a penalty.

11       (c) A proceeding to impose an administrative penalty under  
12 this section is subject to Chapter 2001, Government Code.

13       SECTION 14. Section 165.156, Occupations Code, is amended  
14 to read as follows:

15       Sec. 165.156. MISREPRESENTATION REGARDING ENTITLEMENT TO  
16 PRACTICE MEDICINE. A person, partnership, trust, association, or  
17 corporation commits an offense if the person, partnership, trust,  
18 association, or corporation, through the use of any title,  
19 abbreviation, description of services, designation, letters,  
20 words, or terms, alone or in combination with any other title,  
21 affixed on stationery or on advertisements, or in any other manner,  
22 including oral or written communications, indicates or induces  
23 another to believe that the person, partnership, trust,  
24 association, or corporation is entitled to practice medicine if the  
25 person, partnership, trust, association, or corporation is not  
26 licensed to do so.

27       SECTION 15. Subchapter D, Chapter 165, Occupations Code, is

1 amended by adding Section 165.1565 to read as follows:

2 Sec. 165.1565. USE OF TITLE. (a) In this section, "medical  
3 or medical specialty title" means:

- 4 (1) "doctor of medicine" or "M.D.";
- 5 (2) "doctor of osteopathy" or "D.O.";
- 6 (3) "physician";
- 7 (4) "surgeon";
- 8 (5) "osteopathic physician";
- 9 (6) "osteopathic surgeon";
- 10 (7) "doctor";
- 11 (8) "anesthesiologist";
- 12 (9) "cardiologist";
- 13 (10) "dermatologist";
- 14 (11) "endocrinologist";
- 15 (12) "gastroenterologist";
- 16 (13) "general practitioner";
- 17 (14) "gynecologist";
- 18 (15) "hematologist";
- 19 (16) "intensivist";
- 20 (17) "internist";
- 21 (18) "laryngologist";
- 22 (19) "nephrologist";
- 23 (20) "neurologist";
- 24 (21) "obstetrician";
- 25 (22) "oncologist";
- 26 (23) "ophthalmologist";
- 27 (24) "orthopedic surgeon";

- 1           (25) "orthopedist";
- 2           (26) "osteopath";
- 3           (27) "otologist";
- 4           (28) "otolaryngologist";
- 5           (29) "otorhinolaryngologist";
- 6           (30) "pathologist";
- 7           (31) "pediatrician";
- 8           (32) "primary care physician";
- 9           (33) "proctologist";
- 10          (34) "psychiatrist";
- 11          (35) "radiologist";
- 12          (36) "resident";
- 13          (37) "rheumatologist";
- 14          (38) "rhinologist"; or
- 15          (39) "urologist".

16           (b) Except as provided by Section 104.004, a person who is  
17 not licensed to practice medicine by the board may not:

18           (1) use or publicly display a medical or medical  
19 specialty title in connection with the person's name either alone  
20 or in combination with another word or title; or

21           (2) indicate or induce another to believe that the  
22 person is an attending doctor or attending physician.

23           SECTION 16. Section 204.203, Occupations Code, is amended  
24 to read as follows:

25           Sec. 204.203. IDENTIFICATION REQUIREMENTS. A physician  
26 assistant shall:

27           (1) keep the physician assistant's license available

1 for inspection at the physician assistant's primary place of  
2 business; and

3 (2) when engaged in the physician assistant's  
4 professional activities, wear a name tag identifying the license  
5 holder as a physician assistant by title or the initials "P.A.".

6 SECTION 17. Subchapter E, Chapter 204, Occupations Code, is  
7 amended by adding Section 204.2035 to read as follows:

8 Sec. 204.2035. FALSE AND DECEPTIVE ADVERTISING. A  
9 physician assistant may not use advertising that is false,  
10 misleading, deceptive, or not readily subject to verification as  
11 provided by Section 101.201.

12 SECTION 18. Sections 301.351(a), (b), and (c), Occupations  
13 Code, are amended to read as follows:

14 (a) A person who holds a license [~~as a registered nurse~~]  
15 under this chapter [+

16 [~~(1)~~] is referred to as:

17 (1) a registered nurse or [+ and

18 [~~(2) may use the abbreviation~~] "R.N.";

19 (2) a licensed vocational nurse or "L.V.N.";

20 (3) an advanced practice registered nurse or  
21 "A.P.R.N.";

22 (4) a nurse practitioner or "N.P.";

23 (5) a nurse midwife;

24 (6) a certified registered nurse anesthetist or  
25 "C.R.N.A."; or

26 (7) a clinical nurse specialist or "C.N.S.".

27 (b) A person who holds a license [~~as a vocational nurse~~]

1 under this chapter may not use the title "doctor" unless the person  
2 also holds a license issued by the Texas Medical Board under  
3 Subtitle B, as provided by Section 165.1565. [+

4 ~~[(1) is referred to as a licensed vocational nurse or~~  
5 ~~vocational nurse; and~~

6 ~~[(2) may use the abbreviation "L.V.N." or "V.N."]~~

7 (c) While interacting with the public in a nursing role,  
8 each nurse shall wear a clearly legible insignia identifying the  
9 nurse in accordance with Subsection (a) ~~[as a registered or~~  
10 ~~vocational nurse]~~. The insignia may not contain information other  
11 than:

12 (1) the appropriate ~~[registered or vocational nurse]~~  
13 designation;

14 (2) the nurse's name, certifications, academic  
15 degrees, or practice position;

16 (3) the name of the employing facility or agency, or  
17 other employer;

18 (4) a picture of the nurse; or

19 (5) any other information authorized by the board.

20 SECTION 19. Subchapter H, Chapter 301, Occupations Code, is  
21 amended by adding Section 301.3515 to read as follows:

22 Sec. 301.3515. FALSE AND DECEPTIVE ADVERTISING. A nurse  
23 may not use advertising that is false, misleading, deceptive, or  
24 not readily subject to verification as provided by Section 101.201.

25 SECTION 20. Subchapter L, Chapter 301, Occupations Code, is  
26 amended by adding Section 301.5545 to read as follows:

27 Sec. 301.5545. CRIMINAL PENALTY: CERTAIN TITLES FOR NURSING

1 EDUCATION PROGRAMS PROHIBITED. (a) A person who provides a nursing  
2 education program approved under Section 301.157 or Section 301.303  
3 commits an offense if the person uses the term "residency" or  
4 "fellowship" in the name of that program.

5 (b) An offense under this section is a Class A misdemeanor.

6 SECTION 21. The changes in law made by this Act apply only  
7 to conduct that occurs on or after the effective date of this Act.  
8 Conduct that occurs before that date is governed by the law in  
9 effect on the date the conduct occurred, and the former law is  
10 continued in effect for that purpose.

11 SECTION 22. This Act takes effect September 1, 2023.