

BILL ANALYSIS

C.S.H.B. 3415
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Healing Art Identification Act stipulates how physicians, chiropractors, dentists, and certain other medical professionals can represent their licensure status on items of professional identification, such as stationary, business cards, or pamphlets. When violations occur, the act authorizes a district or county attorney to file and prosecute appropriate judicial proceedings in the name of the state. However, the act currently does not cover nurses, physician assistants, or other midlevel providers.

The bill author has informed the committee that confusing and misleading advertising undermines patient confidence in our health care system and that Texans deserve honesty and transparency through the use of consistent and clearly discernible designations for all healthcare professionals. C.S.H.B. 3415 seeks to address concerns over the misuse of medical titles in wellness and healthcare industries by adding restrictions on the use of certain medical titles and revising provisions relating to the prohibited use by health professionals of advertising that is false, misleading, deceptive, or not readily subject to verification.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3415 amends the Occupations Code to set out and revise provisions with respect to the regulation of certain health professionals, including provisions applicable to health professions generally and provisions applicable to healing art practitioners generally, physicians, physician assistants, and nurses.

Health Professions Generally

False, Misleading, or Deceptive Advertising

C.S.H.B. 3415 amends the Occupations Code, in the provision establishing the types of false, misleading, or deceptive advertising or advertising not readily subject to verification that are prohibited for health professionals generally, that are grounds for revocation or denial of the applicable license by the appropriate health licensing agency, and that are grounds for certain actions under the Deceptive Trade Practices-Consumer Protection Act, to do the following:

- with respect to the type of advertising that causes confusion or misunderstanding as to the credentials, education, or licensing of a health care professional, the bill specifies that such advertising includes using a title, a term, or other words that misstate, falsely

describe, falsely hold out, or falsely detail a health care professional's professional skills, training, expertise, educational degree, specialty certification, or licensure; and

- with respect to the type of advertising that represents in the use of a professional name a title or professional identification expressly or commonly reserved to or used by another profession or professional, the bill removes the specification that the title or identification is expressly or commonly reserved to or used by another profession or professional and replaces it to clarify that the title or identification is one that is associated with another profession that the health care professional is not licensed or otherwise authorized to practice.

The bill establishes that, for purposes of the prohibition on the applicable types of advertising, advertising that includes the name of a health care professional but does not include the professional identification required under the Healing Art Identification Act, as amended by the bill, is considered false, misleading, deceptive, or not readily subject to verification. The bill defines "advertising" for purposes of the prohibition and these bill provisions as follows:

- any printed, electronic, or oral statement, with respect to the provision of health care services by a health care professional:
 - that is communicated or disseminated to the public;
 - that is intended to encourage a person to use the professional's services or, for a commercial purpose, names the professional in connection with the practice, profession, or institution in which the professional provides health care services; and
 - the preparation, communication, or dissemination of which is controlled by the professional or a group to which the professional is affiliated; and
- any communication or statement not described in the preceding bullets but that is used in the regular course of the professional's business for the purpose of promoting the professional's services to the public, including business cards, letterhead, signs, pamphlets, brochures, emails and any other communication or statement transmitted through the Internet, or audio or video communications, including television or radio advertisements.

Healing Art Practitioners

Required Identification

C.S.H.B. 3415, with respect to the provision of the Healing Art Identification Act that requires a person who uses the person's name on a written or printed professional identification, including a sign, pamphlet, stationery, or letterhead, or who uses the person's signature as a professional identification to designate the healing art the person is licensed to practice, provides the following:

- a designation indicating that a person is certified or eligible for certification, as applicable, by a certifying board of the American Board of Medical Specialties or a successor organization is included as an option among the list of designations that a person who is licensed by the Texas Medical Board (TMB) and holds a doctor of medicine degree must use;
- a designation indicating that a person is certified or eligible for certification, as applicable, by a certifying board of the American Osteopathic Association or a successor organization is included as an option among the list of designations that a person who is licensed by the TMB and holds a doctor of osteopathy degree must use; and
- unless otherwise specified by another provision of state law relating to health professions, a person must use only the following designations for each healing art the person is licensed to practice:
 - "midwife," "physician assistant," "acupuncturist," or "surgical assistant," as applicable, if the person holds a license under provisions regulating certain professions performing medical procedures;
 - "dental hygienist," if the person holds a license to practice dental hygiene;
 - "licensed vocational nurse," "registered nurse," "advanced practice registered nurse," "nurse midwife," "certified registered nurse anesthetist," "nurse

- practitioner," or "clinical nurse specialist," as applicable, if the person holds a license under provisions regulating nursing professions;
- "speech-language pathologist," "audiologist," "hearing instrument fitter and dispenser," "licensed dyslexia practitioner," or "licensed dyslexia therapist," as applicable, if the person holds a license under provisions regulating professions related to hearing, speech, and dyslexia;
- "athletic trainer," "physical therapist," "occupational therapist," or "massage therapist," as applicable, if the person holds a license under provisions regulating professions related to certain types of therapy;
- "psychologist," "psychological associate," "marriage and family therapist," "marriage and family therapist associate," "licensed professional counselor," "LPC," "licensed professional counselor-associate," "licensed professional counselor-supervisor," "LPC-S," "licensed professional counselor-art therapist," "LPC-AT," "chemical dependency counselor," "social worker," "licensed behavior analyst," or "assistant licensed behavior analyst," as applicable, if the person holds a license under provisions regulating psychology and counseling professions;
- "medical radiologic technologist," "medical physicist," "perfusionist," "respiratory care practitioner," "orthotist," or "prosthetist," as applicable, if the person holds a license or certificate, as appropriate, under provisions regulating professions related to the use of certain medical equipment; and
- "dietitian," if the person holds a license under the Licensed Dietitian Act.

The provisions of the act regarding required professional identification expressly do not prohibit a person from using, to identify the person, a practice specialty designation the person has been granted by the appropriate licensing board.

False and Deceptive Advertising

C.S.H.B. 3415 prohibits a healing art practitioner from using advertising that is false, misleading, deceptive, or not readily subject to verification as provided by current law and the bill's provisions, applicable to health professions generally, regarding false, misleading, or deceptive advertising.

Enforcement

C.S.H.B. 3415 updates the provision requiring a district or county attorney, on request of a healing art licensing board, to file and prosecute appropriate judicial proceedings in the name of the state against a person who violates the provision of the Healing Art Identification Act requiring certain types of identifying designations to make the provision applicable to a request from a healing art licensing board that issues a license, certificate, or other authorization described by the act as amended by the bill and previously described.

Administrative Penalty

C.S.H.B. 3415 authorizes such a healing art licensing board to impose an administrative penalty on a person who holds a license, certificate, or other authorization described by the Healing Art Identification Act, as amended by the bill, issued by the healing art licensing board and who violates the act. The bill caps the amount of an administrative penalty at \$1,000 for each violation. The bill establishes that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty and that a proceeding to impose an administrative penalty is subject to the Administrative Procedure Act.

Physicians

Misrepresentation Regarding Entitlement to Practice Medicine

C.S.H.B. 3415, for purposes of the Medical Practice Act, expands the conduct that constitutes the offense of indicating, through the use of any letters, words, or terms affixed on stationery or

on advertisements, or in any other manner, that a person, partnership, trust, association, or corporation is entitled to practice medicine if the person, partnership, trust, association, or corporation is not licensed to do so by doing the following:

- including the use of any title, abbreviation, description of services, and designation as conduct subject to the offense;
- specifying that the manner of use subject to the offense, as amended by the bill, may be alone or in combination with any other title;
- specifying that the manner of use includes oral or written communications; and
- including as conduct subject to the offense inducing another to believe that the person, partnership, trust, association, or corporation is entitled to practice medicine if the person, partnership, trust, association, or corporation is not licensed.

Use of Title

C.S.H.B. 3415 prohibits a person who is not licensed to practice medicine by the TMB from using or publicly displaying a medical or medical specialty title in connection with the person's name either alone or in combination with another word or title or indicating or inducing another to believe that the person is an attending doctor or attending physician, except as provided by a specified provision of the Healing Art Identification Act regarding use of the title "doctor." The bill lists the titles that are considered a "medical or medical specialty title" for purposes of this provision. These provisions expressly do not do the following:

- prohibit a licensed chiropractor from using or publicly displaying a postdoctoral diploma obtained by the chiropractor or using one of the listed medical or medical specialty titles if the title clearly includes a reference to "chiropractic" or "chiropractor"; or
- prohibit a person from using, to identify the person, a practice specialty title the person has been granted by the appropriate licensing board.

Physician Assistants

Identification Requirements

C.S.H.B. 3415, with respect to the provision in the Physician Assistant Licensing Act requiring a physician assistant, when engaged in the physician assistant's professional activities, to wear a name tag identifying the license holder as a physician assistant, specifies that the tag identify the physician assistant by title or the initials "P.A."

False and Deceptive Advertising

C.S.H.B. 3415 prohibits a physician assistant from using advertising that is false, misleading, deceptive, or not readily subject to verification as provided by current law and the bill's provisions, applicable to health professions generally, regarding false, misleading, or deceptive advertising.

Nurses

Designations

C.S.H.B. 3415 revises the provision in the Nursing Practice Act establishing the designations and titles used to refer to registered nurses and vocational nurses licensed under that act. Accordingly, the bill removes the provision specifying that a person who holds a license as a vocational nurse under the act is referred to as a vocational nurse, removes the authorization for a person who holds a license as such a vocational nurse to use the abbreviation "V.N." as an alternative to using the abbreviation "L.V.N.", and provides that a person who holds the applicable license under the act is, as follows, referred to as:

- an advanced practice registered nurse or "A.P.R.N.";
- a nurse practitioner or "N.P.";
- a nurse midwife;
- a certified registered nurse anesthetist or "C.R.N.A."; or

- a clinical nurse specialist or "C.N.S."

The bill prohibits a person who holds a license under that act from using the title "doctor," except as provided under the Healing Art Identification Act, unless the person also holds a physician license issued by the TMB, as provided under the bill's provisions amending the Medical Practice Act regarding the use of certain medical or medical specialty titles.

False and Deceptive Advertising

The bill prohibits a nurse from using advertising that is false, misleading, deceptive, or not readily subject to verification as provided by current law and the bill's provisions, applicable to health professions generally, regarding false, misleading, or deceptive advertising.

Applicability

C.S.H.B. 3415 applies only to conduct that occurs on or after the bill's effective date. Conduct that occurs before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3415 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced establishes that advertising that does not include the name of the health care professional and the professional identification required under the Healing Art Identification Act is considered false, misleading, deceptive, or not readily subject to verification, the substitute establishes that advertising that includes the name of the health care professional but does not include such required professional identification is considered false, misleading, deceptive, or not readily subject to verification.

The substitute revises the introduced version's list of designations that must be used by applicably licensed persons for psychology or counseling professions by doing the following:

- replacing the designations of "professional counselor" and "licensed counselor," which were both in the introduced, with the designations of "licensed professional counselor," "LPC," "licensed professional counselor-associate," "licensed professional counselor-supervisor," "LPC-S," "licensed professional counselor-art therapist," and "LPC-AT"; and
- replacing the designations of "behavioral analyst" and "assistant behavioral analyst," which were both in the introduced, with "licensed behavior analyst" and "assistant licensed behavior analyst."

The substitute includes a provision absent from the introduced establishing that the provisions of the Healing Art Identification Act regarding required professional designation do not prohibit a person from using, to identify the person, a practice specialty designation the person has been granted by the appropriate licensing board.

The substitute omits a provision from the introduced that prohibited a person who provides a postgraduate health education program for a healing art that is regulated under applicable state law as a health profession from using the term "residency" or "fellowship" in the name of the program, unless the program is intended for physicians, dentists, podiatrists, or pharmacists.

The substitute revises the definition of "medical or medical specialty title" included in the introduced for purposes of the bill's Medical Practice Act provisions relating to the use of such titles by including the following titles that did not appear in the introduced:

- allergist;

- immunologist;
- neonatologist; and
- physiatrist.

The substitute includes provisions absent from the introduced establishing that those bill provisions do not do the following:

- prohibit a licensed chiropractor from using or publicly displaying a postdoctoral diploma obtained by the chiropractor or using a medical or medical specialty title if the title clearly includes a reference to "chiropractic" or "chiropractor"; or
- prohibit a person from using, to identify the person, a practice specialty title the person has been granted by the appropriate licensing board.

The substitute specifies that a provision of the Healing Art Identification Act regarding use of the title "doctor" provides an exception to the bill's prohibition against a person who holds a license under the Nursing Practice Act using that title unless the person also holds a license issued by the TMB, whereas the introduced did not include this specification.