

Once More Unto the Breach

OMINOUS HEALTHCARE TRUTH AND TRANSPARENCY ACT RESURFACES IN CONGRESS

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In what is shaping up as a repeat of last year's heated battle regarding the Healthcare Truth and Transparency Act of 2006 (H.R.5688), an almost-identical bill (H.R.2260) has been introduced in the House of Representatives by Rep. John Sullivan (OK-1). While proponents of the legislation claim its intent is to protect patients, many believe it is the latest thinly veiled attempt by organized medicine to control and limit alternative health care.

H.R.2260, the Healthcare Truth and Transparency Act of 2007, would "prohibit misleading and deceptive advertising or representation in the provision of health care services, and ... require the identification of the license of certain health care providers." Section 3 of the act includes a very broadly written set of rules prohibiting health care providers." Section 3 of the act includes a very broadly written set of rules prohibiting non-MDs or non-DOs from identifying themselves as doctors:

1. **Conduct Prohibited** - It shall be unlawful for any person who is a licensed health care service provider but who is not a medical doctor or doctor of osteopathic medicine to make any deceptive or misleading statement, or engage in any deceptive or misleading act, that deceives or misleads the public or a prospective or current patient that such person is a medical doctor or doctor of osteopathic medicine or has the same or equivalent education, skills, or training. Such deceptive or misleading statements or acts shall include advertising in any medium, making false statements regarding the education, skills, training, or licensure of such person, or in any other way describing such person's profession, skills, training, experience, education, or licensure in a fashion that reasonably causes the public, a potential patient, or current patient to believe that such person is a medical doctor or doctor of osteopathic medicine.
2. **Requirement to Identify License in Advertising** - Any person who is a licensed health care service provider but who is not a medical doctor or doctor of osteopathic medicine shall identify, in any advertisement in any medium for health care services provided by such person, the license under which such person is authorized to provide such services.
3. **Enforcement** - A violation of subsection (a) or (b) shall be treated as an unfair or deceptive act or practice prescribed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

H.R.2260 also calls for a "study of health care providers subject to the requirement of section 3(a)." According to section 4 of the act, this study would be conducted to:

1. identify specific acts and practices constituting a violation of [section 3];
2. determine the frequency of such acts and practices;
3. identify instances of harm or injury resulting from such acts and practices;
4. determine the extent to which such persons comply with State laws or regulations that:
 1. require oral or written disclosure, to the patient or in an advertisement, of the type of license such person holds; and

2. set forth requirements for advertisements for health care services in regard to disclosure of the type of license under which such person is authorized to provide such services; and
5. identify instances where any State public policy has permitted acts and practices which violate section 3(a)

The Federal Trade Commission is directed to report its findings to Congress no later than one year following enactment of the legislation.

In a press release issued May 10, 2007, the same day H.R.2260 was introduced in Congress, Rep. Sullivan - who introduced H.R.5688 last year - stated: "The overwhelming majority of American people support federal legislation to make it easier for them, as patients, to understand the qualifications of their health care professionals. Patients today are confused about the health care system in general, especially about the differences in health care providers. We need to make changes to allow patients to understand who they are receiving care from, which is why I have re-introduced the Healthcare Truth and Transparency Act."

American Chiropractic Association (ACA) President Richard Brassard, DC, issued a strongly worded response to H.R.2260: "Given the fact that consumer protection laws and restrictions are already in place, it is clear that this redundant legislation is intended to merely undermine the legitimate education and training of chiropractors and other health care professionals. H.R.2260 appears to be working in the best interest of the patient, but clearly its supporters are acting in their own self interest at the expense of consumers."

As part of an overall call to action on H.R.2260, the ACA is emphasizing that the legislation "contains a set of odious findings regarding the public's perception of non-MD health care providers. In addition, the bill's prohibition against an individual representing 'equivalent education, skills or training' as that of an MD or DO, is so broadly written, it could have a chilling effect on the communication of accurate educational and training comparisons between medical and non-medical providers.

"Furthermore, the bill directs the Federal Trade Commission (FTC) to bring charges against individuals who falsely claim to be medical doctors, and calls on FTC to identify instances where any State public policy has permitted health care providers to 'misrepresent' oneself as a medical doctor, an action which could serve as a direct attack on states recognizing DCs as chiropractic physicians."

The ACA is strongly encouraging all doctors of chiropractic to contact their respective members of Congress and express opposition to H.R.2260. A sample letter is available at the ACA Chiropractic Action Center (visit www.amerchiro.org; click on "Advocacy" and then "Legislative Action Center"). You also can call the Capitol Hill switchboard at (202) 225-3121. As of June 7, 2007, H.R.2260 had been referred to the House Committee on Energy and Commerce and was awaiting further action.

Note: For background information on the Healthcare Truth and Transparency Act and the medical establishment's ongoing efforts to contain the perceived "threat" of chiropractic and non-allopathic care, read "Attack on Chiropractic, Alternative Health Care Continues; More Pieces in an All-Too-Familiar Conspiracy Puzzle Fall Into Place," published in the July 30, 2006 issue of *DC* (www.chiroweb.com/archives/24/16/02.html).

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