

## 1 HOUSE BILL NO. 396

2 INTRODUCED BY S. SMALL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE HEALTH CARE PROVIDER TRANSPARENCY  
5 ACT; SPECIFYING NOTIFICATION TERMS AND EXEMPTIONS TO THE NOTIFICATION; AND DESCRIBING  
6 VIOLATIONS AS AN UNFAIR TRADE PRACTICE."

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8 WHEREAS, an informed health care consumer needs not only the information allowed for in Title 50,  
9 chapter 4, regarding certain health care cost information from health care providers and insurers but information  
10 on health care quality, including treatment options and the potential efficacy of those treatments; and

11 WHEREAS, quality health care also depends in part on a consumer's informed choice of health care  
12 provider, a choice made more difficult by advertising that often includes a dizzying array of initials, titles, or  
13 degrees all of which may incorporate the term doctor, doctorate, medical, medicine, or physician in a way that  
14 may mislead a consumer into paying for possibly inappropriate care; and

15 WHEREAS, a 2008 survey by the American Medical Association revealed general public confusion  
16 regarding whether certain health care providers were also medical doctors, with patients wrongly responding that  
17 a chiropractor, a doctor of nursing, a psychologist, an optometrist, and a podiatrist were medical doctors; and

18 WHEREAS, substantial differences exist among health care professionals in their training and  
19 qualifications for correctly detecting, diagnosing, preventing, and treating illness or health conditions.

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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23 NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Health Care  
24 Provider Transparency Act".

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26 NEW SECTION. **Section 2. Purpose.** The legislature finds that truthful representation from health care  
27 providers and their representative organizations assist the public in making informed decisions regarding health  
28 care expenditures and the choice of health care providers. The legislature further finds that there is a compelling  
29 state interest in promoting the availability of prompt and understandable information to help patients make health  
30 care choices.

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2           **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 5], the following definitions  
3 apply:

4           (1) "Advertisement" or "advertising" means a commercial message in any medium, whether print,  
5 electronic, or verbal, that names a health care provider in relation to a practice, profession, or institution that  
6 involves health care services, whether the health care provider is employed, volunteers, or contracts to provide  
7 the health care services. Advertising includes but is not limited to business cards, letterhead stationery, patient  
8 brochures, websites, e-mail, audio, and video.

9           (2) "Deceptive or misleading", when used in describing advertising, includes but is not limited to an  
10 advertisement for health care services that misstates, falsely describes, or falsely represents the health care  
11 provider's degree, skills, training, expertise, education, board certification, or licensure.

12           (3) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws  
13 of this state to provide health care in the ordinary course of business or practice of a profession.

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15           **NEW SECTION. Section 4. Requirements.** (1) Except as provided in subsections (4) and (5), a health  
16 care provider shall identify in any advertisement to provide health care services:

17           (a) the type of degree or license held by the health care provider; and  
18           (b) a title or designation authorized by the health care provider's license or the examination designations  
19 required for licensure.

20           (2) An advertisement under this section may not contain deceptive or misleading information.

21           (3) In a practice setting, a health care provider shall affirmatively communicate the health care provider's  
22 specific licensure by:

23           (a) during all patient encounters, wearing a nametag that clearly identifies the professional degree held  
24 by the health care provider unless precluded by adopted sterilization or isolation protocols. The nametag must  
25 be of sufficient size and be worn in a conspicuous manner so that the nametag is visible and apparent.

26           (b) in an office in which the health care provider sees current or prospective patients, displaying a posted  
27 notice that clearly identifies the type of degree or license held by the health care provider. The notice must be of  
28 sufficient size to be visible and apparent to a current or prospective patient. A health care provider who practices  
29 in more than one office shall follow the procedures under this subsection (3) in each office.

30           (c) using only the degree titles or initials authorized by the health care provider's license and any

1 examination designation required for licensure.

2 (4) A health care provider working in a nonpatient practice setting who does not have any direct  
3 interactions with patients is not subject to the provisions of subsections (1) through (3).

4 (5) An aide to a health care provider or a student, intern, or resident working in a health care specialty  
5 shall wear a nametag that clearly identifies the individual's name and position unless otherwise provided by the  
6 licensing provisions for the health care provider responsible for the aide, student, intern, or resident.

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8 **NEW SECTION. Section 5. Violations.** Failure to comply with any provision of [sections 1 through 5]  
9 is:

10 (1) unprofessional conduct and is subject to disciplinary action by the board regulating the licensee's  
11 health care profession or by the department of labor and industry for professions without a regulatory board; and

12 (2) a violation of 30-14-103, for which the penalty provisions of the Montana Unfair Trade Practices and  
13 Consumer Protection Act of 1973 apply.

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15 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 5] are intended to be codified  
16 as an integral part of Title 37, chapter 2, and the provisions of Title 37, chapter 2, apply to [sections 1 through 5].

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