

LFC Requester:**Eric Chenier****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 2-5-2025*Check all that apply:***Bill Number:** HB 247Original Correction Amendment Substitute **Sponsor:** Rep. Pameyla Herndon**Agency Name
and Code**

Regulation and Licensing

Department, 420

Number:**Short** Health Care Practitioner**Person Writing**Jen Rodriguez**Title:** Transparency Act**Phone:** 505-795-3250**Email** Jen.rodriguez@rld.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	Unknown*	Unknown*	Unknown*	Recurring	Multiple*

(Parenthesis () Indicate Expenditure Decreases)

* Please see Note in "Fiscal Implications" section, below.

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 247 (HB247)

HB247 introduces a new act, the Health Care Practitioner Transparency Act (Act,) designed to reduce public confusion on the credentials of healthcare practitioners and prohibit false advertising by healthcare practitioners.

The Act defines “deceptive or misleading terms or false representations” to mean the use of titles or terms that misstate or falsely imply the practitioner’s: (1) profession; (2) skills; (3) training; (4) expertise; (5) educational degree; (6) board certification; (7) licensure; (8) work or services offered; or (9) medical field, if the practitioner is not a licensed physician.

The Act applies to the following healthcare practitioners(practitioners):

- (1) chiropractic physicians;
- (2) professional counselors, social workers or marriage and family therapists;
- (3) dentists;
- (4) dietitians;
- (5) advanced practice registered nurses including nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, clinical nurse specialists, registered professional nurses, and licensed practical nurses (nurses);
- (6) occupational therapists;
- (7) optometrists;
- (8) physical therapists;
- (9) allopathic physicians or osteopathic physicians;
- (10) physician assistants (PA’s);
- (11) acupuncturists;
- (12) podiatric physicians;
- (13) psychologists;
- (14) audiologists of speech-language pathologists;
- (15) pharmacists;
- (16) ophthalmic technicians;
- (17) medical assistants or certified nursing assistants; and
- (18) respiratory care professionals.

The Act requires that any advertisement by a practitioner includes their name, and the type of license under which they provide services. They also cannot use deceptive or misleading terms or false representations as defined above. They also cannot include a reference to a medical title (defined as being a medical doctor or physician) unless they are, in fact, a physician.

A health care practitioner in a facility other than a hospital must display in the reception area clear identification of the type of practitioners working in the facility and the right of patients to inquire about the licenses held by each practitioner. The Act does not require listing the name of every practitioner employed by the facility.

A health care practitioner is required to wear an identifier (I.D.) during all patient encounters that includes the practitioner's name and type of license and educational degree held. This I.D. is not required in an operating room or other sterile setting, in a mental health setting where it would impede the psychotherapeutic relationship, or if a safety or health risk would be created because of wearing an I.D.

I.D. requirements do not apply to a health care practitioner who practices in a nonpatient care setting and does not have direct patient care interactions. The I.D. requirements only apply to dentists, chiropractic physicians, or optometrist if they are practicing in a hospital, nursing home, assisted living community, or personal care home. A health care facility that already requires its practitioners to wear an identification badge shall not be required to replace existing badges to conform with the new I.D. requirements.

A nurse or PA must verbally identify as such during each initial patient interaction. A nurse or PA who holds a doctorate degree and identifies with the title "doctor" in a clinical setting must clearly state that the title does not refer to being a medical doctor or physician.

Nothing in the Act shall be construed to create or imply a private cause of action for violation of the Act or prevent a health care practitioner from using a title that is statutorily authorized pursuant to a license.

FISCAL IMPLICATIONS

*Note: It is anticipated that there may be an increase in complaints from the public regarding health care providers who do not follow the Act. This would require additional investigations and complaint follow-up by inspectors and investigators from the Compliance staff of the Regulation and Licensing Department's (RLD) Boards and Commissions Division (BCD). The extent and cost of complaint investigations due to the Act, however, is not clear. Additional staff may need to be hired to address additional complaints. Each of the professional licensing boards/commissions that are administratively attached to the RLD and will be impacted by HB247 have their own nonreverting funds that are utilized to pay the costs of the staffing and other operational expenses of the RLD to support those boards/commissions. Each of those nonreverting funds would therefore be impacted by HB247 to the extent there are additional complaints/violations that would have to be investigated by the BCD Compliance staff and the costs resulting from the increase in investigations and/or administrative and appellate litigation connected to an increase in disciplinary actions ordered by each board/commission.

An administrative rulemaking process, including a public hearing and all required publication of notices and proposed rules, would likely be required to update and amend current administrative rules issued pursuant to the Act if HB 247 is enacted. The RLD believes it can absorb the costs associated with the rulemaking processes for this bill within existing resources.

SIGNIFICANT ISSUES

The Chiropractic Board indicated that they have no concerns with HB247 as written.

The Counseling and Therapy Practice Board has indicated support for HB247 but noted it would be helpful for the Act to reference substance abuse counselors and licensed art therapists as both are also licensed under the Counseling and Therapy Practice Act, and ambiguity exists concerning how those licensees are authorized to advertise their credentials.

The Board of Social Work Examiners has indicated support for HB247, stating that it will lead to

“consistency in provider transparency and information for client knowledge and understanding of who their provider is and the provider's specialty/licensure.”

The Board of Dental Health Care raised the following concerns:

- Section 3, B(2) states: “B. An advertisement by a health care practitioner shall not:
. . . (2) include or reference a medical title unless the health care practitioner is a physician.”

Licensed dentists receiving a Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree from a CODA-accredited institution recognized by the United States Department of Education generally refer to themselves as “Dr. _(name)_.” Removing all references to this academic title from signs, websites, printed or branded materials, oral hygiene products (eg imprinted toothbrushes), etc. would place an extremely high burden on dentists and facilities employing them.

- Section 4, D states:
“D. No health care practitioner shall identify in a clinical setting using:
(2) a medical title, unless the health care practitioner is a licensed medical doctor or physician.”

Although this provision (per Subsection G) only applies in a hospital, nursing home, assisted living community or personal care home, there are dentists (especially oral surgeons, pediatric dentists, and other dentists working with older adults, pediatric, or special needs populations) who do have privileges in hospitals and long-term care facilities.

- Dental Therapists and Dental Hygienists are also licensed dental healthcare providers not included in this act. Would they be required to comply as well?
In the case of employee licensees, would the non-dentist owner licensee or other owner dentist licensee be subject to action as well?
- Additionally, the Dental Health Care Board indicates that they already have rules in place and HB247 would be redundant. See Rules 16.5.1.8, 16.5.1.29, and 16.5.16.10 B NMAC.

The Nutrition and Dietetics Practices Board requests that “nutritionists” be included in the definition of “healthcare practitioner.” Otherwise, they indicate support for HB247, indicating that it will help protect public health.

The Board of Examiners for Occupational Therapy expressed concern that not all behavioral health providers are included in the Act. They note that applied behavioral analysts (ABA) providers are not listed. There is also concern that “health care practice or facility” does not cover all the service delivery means employed by practitioners. They do support ending the ambiguity of a Ph.D. graduate purporting to be a “doctor.” The Board also recommends adding that practitioners may only advertise within their “scope of practice.”

The Board of Optometry indicated that they saw no obvious concerns or problems with HB247.

The Physical Therapy Board is concerned that there is too much ambiguity in the Act, leading to confusion in its implementation. For example, the requirement that badges be a “sufficient size and worn in a conspicuous manner” may leave too much room for interpretation.

The Board of Psychologist Examiners has indicated support for HB247, stating that the “[p]otential impact is ensuring clarity around training and licensure, which can then lead to greater protection of the public.”

The Speech-Language Pathology, Audiology and Hearing Aid Dispensers Practices Board is ambivalent about HB247. The Board has indicated that it is unclear if "outpatient practice setting" is referring to private practices. Further clarification as to which settings this bill applies to would be helpful. While dentists, chiropractic physicians and optometrists are exempt from I.D. requirements in a private setting, audiologists and speech-language pathologists are not. These professions often have private practices, and it is unclear why they are not also exempt. It may be an unnecessary and somewhat burdensome requirement to have practitioners wearing badges in their own private businesses. Ideally, however, clarification on advertising will reduce healthcare fraud. Clarification on advertisements is an important step towards decreasing and discouraging healthcare fraud.

The Board of Pharmacy requires name tags that include titles in pharmacies. To avoid unnecessary administrative burden the Board requests that, on page 4, line 24, add "or pharmacy" after the word hospital. (A health care practitioner in a health care practice or facility other than a hospital *or pharmacy* shall display in the reception area...).

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

As written, it is not clear where the Act fits into current statutes. The new Act appears to be most suited to Chapter 24 of the New Mexico Statutes Annotated 1978.

OTHER SUBSTANTIVE ISSUES

Although HB247 purports to set penalties for violations of the Act, none are listed. A penalty amendment or reference to other statutes that provide for penalties (like the Acts for each of the 18 types of practitioners) would give clearer guidance on how to penalize violators of this Act. If rulemaking is required for each licensing board covered by this Act, an amendment is needed.

Page 2, line 21, "outpatient practice setting" is vague, and not defined. It would be helpful to have that type of practice explained in the definitions (Section 2 of the Act)

The "health care practitioner" definition (pages 2-3) includes medical assistant. A medical assistant is not a license type, and no degree is required. This creates an issue with applicability of Section 4, conspicuous display, and worn identifier.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Lack of transparency regarding professional training will continue, leaving in place the potential for unethical practices that are difficult to penalize.

AMENDMENTS

Please see recommendations for amendments to the bill included in the "Significant Issues," and "Other Substantive Issues" sections, above.