

# Insights

## Transparency is the Name of the Game

June 13, 2022

By: Grant M. Achenbach, Andrew W. Breck, and Thomas N. Hutchinson

Transparency is a hot topic in healthcare. Instituted due to popular demand and now enforced by state and federal laws, transparency is required through good faith estimates for the cost of health care services, publishing of pricing data online in machine readable formats, and requirements for out-of-network providers to provide notice and obtain consent from patients before balance billing.

Now, Indiana law requires transparency in health care advertising and licensure. Senate Enrolled Act (SEA) 239<sup>1</sup> was passed during the 2022 session of the Indiana General Assembly and applies to nearly all licensed health care professionals. Here's what you need to know:

- All advertisements communicated or disseminated after January 1, 2023 that include a health care practitioner's name must prominently state the profession or license held by the practitioner in a font size and style that makes the information readily apparent to the reader.
- Advertisements for health care practitioners communicated or disseminated after January 1, 2023 may not include any deceptive or misleading information. Violators are subject to disciplinary sanctions by the board that issues the practitioner's license.
- Note that "advertisement" is defined broadly to include any printed, electronic, or oral statements communicated to the general public that encourage the use of a practitioner's services or name the practitioner for commercial purposes in connection with the practice, profession, or institution which the practitioner is employed, volunteers, or provides health care services.
- A list of medical specialist terms was added to the definition of the "practice of medicine" in state law. The consequence of this addition is that these terms, such as "anesthesiologist," "cardiologist," and "dermatologist" (to name a few), may only be utilized by licensed physicians. This change is effective July 1, 2022.

While these requirements are relatively straightforward, licensed health care practitioners should be mindful of the effective dates of the provisions outlined above (January 1, 2023 for advertisement requirements and July 1, 2022 for medical specialty terms) and take necessary steps to ensure their advertising activities comply with the new Indiana law. This involves reviewing all websites, mailers, and other media used to advertise health care services that specifically include the name of the practitioner.

If you have questions about this law's application to you, your practice, and/or your employees, please contact **Grant M. Achenbach** or **Andrew W. Breck**.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*

[1] <http://iga.in.gov/legislative/2022/bills/senate/239>