

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5295

To ensure that patients receive accurate health care information by prohibiting misleading and deceptive advertising or representation in the provision of health care services, and to require the identification of the license of health care professionals.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2010

Mr. SULLIVAN (for himself, Mr. SCOTT of Georgia, and Mr. McDERMOTT) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To ensure that patients receive accurate health care information by prohibiting misleading and deceptive advertising or representation in the provision of health care services, and to require the identification of the license of health care professionals.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthcare Truth and  
5 Transparency Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) many types of health care professionals in-  
2           cluding physicians, technicians, nurses, physician as-  
3           sistants, and other allied practitioners are engaged  
4           in providing services in health care settings, and all  
5           of these individuals play an important and distinct  
6           role in the health care delivery system;

7           (2) the exchange of information between pa-  
8           tients and their health care professionals is critical  
9           to helping patients understand their health care  
10          choices;

11          (3) consumers are often unaware of the dif-  
12          ferences in, and seek more information about, the  
13          qualifications, training, and education of their health  
14          care professionals;

15          (4) evidence exists of patient confusion result-  
16          ing from ambiguous health care nomenclature and  
17          related advertisements and marketing products; and

18          (5) a nationwide survey conducted in August  
19          2008 revealed the depth of confusion regarding the  
20          education, skills, and training of health care profes-  
21          sionals and indicated strong support for regulating  
22          the advertising and marketing claims of health care  
23          professionals.

1 **SEC. 3. HEALTH CARE SERVICE PROFESSIONAL UNFAIR**  
2 **AND DECEPTIVE ACTS AND PRACTICES.**

3 (a) CONDUCT PROHIBITED.—It shall be unlawful for  
4 any person to make any deceptive or misleading state-  
5 ment, or engage in any deceptive or misleading act, that—

6 (1) misrepresents whether such person holds a  
7 State health care license; or

8 (2) misrepresents such person’s education,  
9 training, degree, license, or clinical expertise.

10 (b) REQUIREMENT TO IDENTIFY LICENSE IN AD-  
11 VERTISING.—Any person who is advertising health care  
12 services provided by such person, shall disclose in such ad-  
13 vertisement the applicable license under which such person  
14 is authorized to provide such services.

15 (c) ENFORCEMENT.—A violation of subsection (a) or  
16 (b) shall be treated as an unfair or deceptive act or prac-  
17 tice prescribed under section 5 of the Federal Trade Com-  
18 mission Act (15 U.S.C. 45). The Federal Trade Commis-  
19 sion shall enforce this Act in the same manner, by the  
20 same means, and with the same jurisdiction as though all  
21 applicable terms and provisions of the Federal Trade  
22 Commission Act were incorporated into and made a part  
23 of this Act.

24 **SEC. 4. TRUTH IN ADVERTISING STUDY.**

25 (a) STUDY.—As soon as practicable after the date of  
26 enactment of this Act, the Federal Trade Commission

1 shall conduct a study of health care professionals subject  
2 to the requirement of section 3(a) to—

3 (1) identify specific acts and practices consti-  
4 tuting a violation of such section;

5 (2) determine the frequency of such acts and  
6 practices;

7 (3) identify instances of harm or injury result-  
8 ing from such acts and practices;

9 (4) determine the extent to which such persons  
10 comply with State laws or regulations that—

11 (A) require oral or written disclosure, to  
12 the patient or in an advertisement, of the type  
13 of license such person holds; and

14 (B) set forth requirements for advertise-  
15 ments for health care services with regard to  
16 disclosure of the type of license under which  
17 such person is authorized to provide such serv-  
18 ices; and

19 (5) identify instances where any State public  
20 policy has permitted acts and practices which violate  
21 section 3(a).

22 (b) REPORT.—The Federal Trade Commission shall  
23 report its findings to Congress not later than 1 year after  
24 the date of the enactment of this Act.

1 **SEC. 5. RULE OF CONSTRUCTION.**

2       Nothing in this Act shall be construed or have the  
3 effect of changing State scope of practice for any health  
4 care professional.

5 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

6       For the purpose of carrying out this Act, there are  
7 authorized to be appropriated to the Federal Trade Com-  
8 mission such sums as may be necessary for each of fiscal  
9 years 2011 through 2015.

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