

AMENDED IN ASSEMBLY APRIL 17, 2023

AMENDED IN ASSEMBLY APRIL 12, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 765

Introduced by Assembly Member Wood

February 13, 2023

An act to amend Section 2054 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 765, as amended, Wood. Physicians and surgeons: medical specialty titles.

Existing law, the Medical Practice Act, establishes the Medical Board of California for the licensure and regulation of physicians and surgeons. Existing law makes it a misdemeanor for a person who is not licensed as a physician and surgeon under the act, except as specified, to use certain words, letters, and phrases or any other terms that imply that the person is authorized to practice medicine as a physician and surgeon.

This bill would enact the California Patient Protection, Safety, Disclosure, and Transparency Act. The bill ~~would~~ *would, except as prescribed*, make it a misdemeanor for a person who does not have a valid, unrevoked, and unsuspended certificate as a physician and surgeon to use any medical specialty title, as specified, or any titles, terms, letters, words, abbreviations, description of services, designations, or insignia indicating or implying that the person is licensed to practice under the act. The bill would make related legislative findings and declarations. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California Patient Protection, Safety, Disclosure, and Transparency
- 3 Act.
- 4 SEC. 2. The Legislature finds and declares all of the following:
- 5 (a) Consumer protection is the highest priority of all boards,
- 6 bureaus, and commissions within the Department of Consumer
- 7 Affairs.
- 8 (b) Health care consumers can be confused and misled about
- 9 the differences between the qualifications and education of various
- 10 types of health care providers.
- 11 (c) Misuse of health care provider titles can cause patients to
- 12 mistakenly believe they are meeting with physicians and surgeons,
- 13 such as medical doctors or doctors of osteopathic medicine, when
- 14 they are not.
- 15 (d) According to the American Medical Association’s Truth in
- 16 Advertising surveys, patients want their health care professional
- 17 to clearly designate their education and training.
- 18 (e) According to the American Medical Association’s Truth in
- 19 Advertising surveys, 88 percent of patient respondents agree that
- 20 only licensed medical doctors or doctors of osteopathic medicine
- 21 should be able to use the title of physician.
- 22 (f) According to the American Medical Association’s Truth in
- 23 Advertising surveys, 79 percent of patient respondents would
- 24 support legislation in their state to require all health care advertising
- 25 materials to clearly designate the level of education, skills, and
- 26 training of all health care professionals promoting their services.
- 27 (g) Patients deserve to have increased clarity and transparency
- 28 in the education and training of their health care providers.
- 29 (h) Confusing or misleading health care advertising and
- 30 communications have the potential to put patient safety at risk.

1 (i) Requiring health care providers to communicate and display
2 their proper title, credentials, and capabilities allows patients to
3 make informed choices about their health care.

4 (j) Uninformed health care choices can lead to unintended and
5 potentially dangerous consequences.

6 SEC. 3. Section 2054 of the Business and Professions Code is
7 amended to read:

8 2054. (a) Any person who uses in any sign, business card, or
9 letterhead, or, in an advertisement, the words “doctor” or
10 “physician,” the letters or prefix “Dr.,” the initials “M.D.” or
11 “D.O.,” or any other terms or letters indicating or implying that
12 the person is a physician and surgeon, physician, surgeon, or
13 practitioner under the terms of this or any other law, or that the
14 person is entitled to practice hereunder, or who represents or holds
15 themselves out as a physician and surgeon, physician, surgeon, or
16 practitioner under the terms of this or any other law, without having
17 at the time of so doing a valid, unrevoked, and unsuspended
18 certificate as a physician and surgeon under this chapter, is guilty
19 of a misdemeanor.

20 (b) Notwithstanding subdivision (a), any of the following
21 persons may use the words “doctor” or “physician,” the letters or
22 prefix “Dr.,” or the initials “M.D.” or “D.O.”:

23 (1) A graduate of a medical or an osteopathic medical school
24 approved or recognized by the medical or osteopathic medical
25 board while enrolled in a postgraduate training program approved
26 by the board.

27 (2) A graduate of a medical or an osteopathic medical school
28 who does not have a certificate as a physician and surgeon under
29 this chapter if the individual meets all of the following
30 requirements:

31 (A) If issued a license to practice medicine in any jurisdiction,
32 has not had that license revoked or suspended by that jurisdiction.

33 (B) Does not otherwise hold themselves out as a physician and
34 surgeon entitled to practice medicine in this state except to the
35 extent authorized by this chapter.

36 (C) Does not engage in any of the acts prohibited by Section
37 2060.

38 (3) A person authorized to practice medicine under Section 2111
39 or 2113 subject to the limitations set forth in those sections.

1 (4) A person holding a current and active license under another
2 chapter of this division, to the extent the use of the title is consistent
3 with the act governing the practice of that license.

4 (5) A person whose use of the word “doctor” or the prefix “Dr.”
5 is not associated with any claim of entitlement to practice medicine
6 or any other professional service for which the use of the title
7 would be untrue or misleading pursuant to Section 17500.

8 (c) (1) A person shall not use any medical specialty title,
9 including the names or titles “anesthesiologist,” “cardiologist,”
10 “dermatologist,” “doctor of osteopathic medicine,” “emergency
11 physician,” “endocrinologist,” “family physician,”
12 “gastroenterologist,” “general practitioner,” “gynecologist,”
13 “hematologist,” “hospitalist,” “internist,” “interventional pain
14 medicine physician,” “laryngologist,” “medical doctor,”
15 “nephrologist,” “neurologist,” “obstetrician,” “oncologist,”
16 “ophthalmologist,” “orthopedic surgeon,” “orthopaedic surgeon,”
17 “orthopedist,” “orthopaedist,” “osteopathic physician,” “otologist,”
18 “otolaryngologist,” “otorhinolaryngologist,” “pathologist,”
19 “pediatrician,” “perinatologist,” “plastic surgeon,” “primary care
20 physician,” “proctologist,” “psychiatrist,” “radiologist,”
21 “reproductive endocrinologist,” “rheumatologist,” “rhinologist,”
22 “surgeon,” “urogynecologist,” or “urologist,” or any other titles,
23 terms, letters, words, abbreviations, description of services,
24 designations, or insignia, alone or in combination with any other
25 title, indicating or implying that the person is licensed under this
26 chapter to practice as such, unless the person has at the time of so
27 doing a valid, unrevoked, and unsuspended certificate as a
28 physician and surgeon under this chapter. A person who violates
29 this subdivision is guilty of a misdemeanor.

30 (2) This subdivision does not prevent a person holding a current
31 and active license under another chapter of this division from using
32 any term identified on their license, certificate, or registration, or
33 from making any truthful statement that they specialize in a service
34 or field that is within their licensed scope of practice and that does
35 not contain any of the medical specialty titles specified in paragraph
36 (1).

37 (3) *This subdivision does not prevent an individual licensed*
38 *under this chapter from using the term “surgeon” as long as that*
39 *individual has been granted privileges to perform surgery in a*
40 *health care facility licensed pursuant to Chapter 2 (commencing*

1 *with Section 1250) of Division 2 of the Health and Safety Code, a*
2 *surgical clinic licensed pursuant to paragraph (1) of subdivision*
3 *(b) of Section 1204 of the Health and Safety Code, an outpatient*
4 *setting accredited by an accreditation agency, as defined in Section*
5 *1248 of the Health and Safety Code, or an ambulatory surgical*
6 *center certified to participate in the Medicare Program under Title*
7 *XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et*
8 *seq.).*

9 *(4) Paragraph (1) does not apply to any person who possesses*
10 *a license pursuant to Section 1626, or holds a special permit under*
11 *Section 1640, when using a dental specialty or discipline title, as*
12 *defined in Section 1640.1.*

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.