Issues At-A-Glance: The AMA’s “Truth in Advertising Campaign”

WHAT IS IT?
“Truth In Advertising” legislation was initiated by the American Medical Association (AMA) in 2009. This was a response to the increasing number of healthcare providers prepared at the doctoral level and the confusion that the AMA believed would occur as patients encountered these doctorate prepared clinicians. The campaign initially consisted of a public survey and a federal legislative effort. State legislative efforts through state medical societies, with the financial and campaign support of the AMA’s Scope of Practice Partnership, have also been introduced.

According to the AMA the purpose of the state bill efforts is to:

“Provide clarity and transparency for patients when they seek out and go to a health care practitioner. Due to the explosion of professional and quasi-professional titles employing the word “doctor”, patients are confused about the training and education of health care practitioners. This bill helps ensure that patients are promptly and clearly informed of the training and qualifications of their health care practitioner.”

To this end, the AMA has provided “model legislative language and other resources for states to use to ensure that nonphysician misrepresentation does not occur” (AMA News, October 29, 2012). See the link at the end of this At-A-Glance to read the AMA’s resource materials and model bill language.

The American Association of Nurse Practitioners (AANP) supports the use of the title “doctor” for those nurses that have graduated from a doctoral nursing program. While AANP supports the appropriate use of professional titles and stands against deceptive and intentionally misleading representation, the mechanisms proposed by the AMA’s campaign and model state legislation are not appropriate or necessary to address this perceived issue. Current state and HIPAA law already contain requirements to clearly identify health care providers and protect the public. The AMA’s “Truth in Advertising” model language unnecessarily duplicates existing state and HIPAA safeguards, creates redundancies in discipline and penalties, disproportionally applies standards, and could be used to promote a false hierarchy of care that misleads patients and delays care.

WHERE IS IT?
In the last three years, over twenty states have seen medical associations bring forward the AMA’s “Truth in Advertising” legislation aimed at limiting titling use in the clinical setting and on advertising. Only six states have states have adopted any of the elements in the AMA’s TIA model bill. The majority of these states amended down the initial language offered by the medical societies, and ended with legislation that reflected only name badge related changes and/or provided for NPs and other doctoral prepared healthcare providers to use the title “doctor” in clinical settings and advertising.

States with adopted elements of TIA changes—CT, LA, MS, PA, TN and UT. States where the AMA’s TIA legislation is planned for the 2013 state legislative session: CO, FL, MD, MO, MS, ND, NE, NM, NY, PA, SD, TX, VT, WA, WI and WV.

HOW IT WILL IMPACT MY PATIENTS AND MY PRACTICE?
The impact on patients and the profession will vary based on the final language that is adopted by the legislature. The impact of the AMA’s TIA model language has been projected by stakeholders in the nursing and boarder healthcare community to introduce unnecessary and duplicative regulations and penalties, and lead to patient confusion. Additionally, the AMA language seeks specifically to promote the
profession of Medicine above that of other health disciplines.

Fortunately, legislators in many states have seen the challenges and inequities that the AMA’s TIA model language would introduce, and have been willing to work with stakeholders to amend the bill language or have held the bill from moving forward. State bills will need to be reviewed individually to assess the impact. AANP’s policy office has provided some action steps to help you screen bills in your state.

**ACTION STEPS:**

If TIA legislation is introduced in your state, please alert AANP’s state policy office, and analyze the bill for impact based on your state’s current laws and requirements.

**Key questions to consider:**

1. Does the state already have laws or regulations that address title use and disclosure to patients? If so, does the proposed law offer substantial new benefit to the public for licensed health care provider oversight? Is this new proposed law—with added bureaucracy and cost—really necessary? Who benefits from this proposed law?

2. Do the requirements make sense in all practice situations? Do standardized requirements for name badge disclosure balance patient’s rights with a healthcare provider’s safety? There are some clinical settings where including the first and last name of a healthcare provider may create unnecessary risk for clinicians.

3. How does the AMA’s proposed requirement that providers post a notice in their office of a collaborative or supervisory agreement and list hours that the physician will be present in the office assist patients? Such practice requirements are part of state practice laws and should not be included in advertising requirements. Posting such a notice may imply a different relationship than currently exists in statute between the patient, their care provider and the collaborative provider. This linking may imply vicarious or other added liability for collaborative providers that existing practice law did not intend. Liability concerns could create added primary care provider workforce shortages as collaborative providers elect not to continue in these roles as an indirect result of this advertising requirement.

4. Are there alternatives to the proposed law that would work better? Could a provider education outreach or minor adjustment in existing regulation accomplish the same goal?

5. Will the provisions and requirements in the proposed law apply equally to all health care providers? Some of the 2011-12 proposed bills excluded medical and osteopathic physicians from meeting the restrictive requirements of the proposed TIA legislation. If your state is looking at adopting this type of law, work with your elected officials to ensure that the law will be equally applied to all healthcare providers, including DO’s and MD’s.

6. Will the language in the legislation provide an anticompetitive advantage to one set of providers? Seek to ensure that no single provider type benefits economically at the expense of other competing professions.

7. How will these changes impact the larger healthcare community and patients seeking care? Work with legislators to make sure that patients and all healthcare disciplines have a voice in shaping the legislation. Please contact AANP for assistance locating provider stakeholders in your state.

**Additional Resources**

- AMA’s TIA campaign booklet
- AMA News: Exam room disclosure: Nonphysicians must be clearly ID’d

If transparency legislation is proposed in your state, please contact the AANP State Government Affairs office at (512) 732-2320. The AANP welcomes the opportunity to work with stakeholders to shape legislation that is beneficial and appropriate for patients, nurse practitioners and the healthcare community.