

SAN LUIS OBISPO SUPERIOR COURT
BY 
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN LUIS OBISPO**

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA,

13 Plaintiff,

14 v.

15 SARAH ANNE ERNY,

16 Defendant.

COURT NO. 22CV-0589

COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES AND OTHER
EQUITABLE RELIEF

(Bus. & Prof. Code, §§ 2054, 17200 *et*
seq., 17500 *et seq.*, and 17900 *et seq.*)
Exempt from fees per Gov. Code, § 6103

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18 Plaintiff, the People of the State of California, by and through Dan Dow, District
19 Attorney for the County of San Luis Obispo, State of California, is informed and believes and
20 based thereon alleges:

21 1. The People seek to enjoin Defendant, a registered nurse practitioner, from referring
22 to herself as “Dr. Sarah Erny” to the public, which is prohibited under California law. Only
23 physicians, medical doctors, and a few other medical providers are permitted to use the title
24 “doctor” under California’s Medical Practices Act so as to protect the public.

25 **VENUE AND JURISDICTION**

26 2. Dan Dow, District Attorney for the County of San Luis Obispo, State of
27 California, brings this action in the public interest in the name of the People of the State of
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1 California pursuant to sections 2054, 17200 *et seq.*, 17500, *et. seq.*, and 17900 *et seq.* of the
2 Business and Professions Code.

3 3. This Court has jurisdiction according to Article 6, section 10, of the California
4 Constitution.

5 4. Venue is proper in this county under Code of Civil Procedure section 393, in that
6 the violations alleged in this Complaint occurred in the County of San Luis Obispo.

7 **DEFENDANT**

8 5. Defendant SARAH ANNE ERNY is, at all times mentioned, doing business in
9 San Luis Obispo County, California.

10 4. At all times mentioned, Defendant SARAH ANNE ERNY (“Defendant”) is a
11 California Nurse Practitioner, license number 22500.

12 5. As a licensed registered nurse within California, she is regulated by Chapter 6,
13 “Nursing Practice Act,” commencing at Business and Professions Code section 2700.

14 6. At no time was Defendant a physician, medical doctor, surgeon, or other qualified
15 medical provider as regulated under Chapter 5, “Medical Practices Act,” section 2054 of the
16 Business Professions Code entitled to refer to herself to the public as “Dr. Erny.”

17 **STATUTORY AND REGULATORY BACKGROUND**

18 7. The Medical Board of California is a consumer protection agency whose highest
19 and paramount priority is the protection of the public. (Business & Professions Code § 2001.1)

20 8. One mechanism used to protect the public by the Medical Board is to significantly
21 limit those medical providers that are permitted to call themselves “doctor” or “physician.” Under
22 California’s Medical Practices Act, the words “doctor” or the prefix “Dr.,” “or any other terms
23 or letters indicating or implying that he or she is a physician and surgeon...without
24 having...certificate as a physician and surgeon...is guilty of a misdemeanor.” (Business &
25 Professions Code § 2054.) This statute was enacted to ensure that “every person engaged in
26 professional activities [would] properly represent himself [or herself] in his [or her] true capacity
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1 by an appropriate title.” (Lawton v. Board of Medical Examiners (1956) 143 Cal.App.2d 256,
2 261.)

3 9. In addition to criminal liability, California’s Medical Practices Act also provides
4 that a medical provider’s improper identification as a “doctor” is unprofessional conduct. “Unless
5 a person authorized under this chapter [‘Medicine’] to use the title ‘doctor’ or the letters or prefix
6 ‘Dr.’ holds a physician’s and surgeon’s certificate, the use of such title, letters, or prefix without
7 further indicating the type of certificate held, constitutes unprofessional conduct.” (Business &
8 Professions Code § 2278.)

9 10. Like the Medical Board of California, the Board of Registered Nursing’s highest
10 and paramount priority the is protection of the public. (Business and Professions Code § 2708.1.)

11 11. A Registered Nurse (“RN”) in California may use the letters ‘R.N.’ after their
12 name.” (Business and Professions Code § 2732.)

13 12. A Nurse Practitioner (“NP”) is a Registered Nurse but possesses additional
14 preparation and skills than a Registered Nurse. (California Code of Regulations, title 16, § 1480.)
15 A Nurse Practitioner functions within the scope of practice as specified in the Nursing Practice
16 Act and as applied to all Registered Nurses. (California Code of Regulations, title 16, § 1485.)

17 13. Registered nurses who have been certified as Nurse Practitioners by the California
18 Board of Registered Nursing may use the titles “Advanced Practice Registered Nurse” and
19 “Certified Nurse Practitioner” and place the letters “APRN-CNP,” “R.N., N.P.,” or in
20 combination with other letters or words identifying categories of specialization, including but not
21 limited to the following: adult nurse practitioner, pediatric nurse practitioner, obstetrical-
22 gynecological nurse practitioner, and family nurse practitioner. (California Code of Regulations,
23 title 16, § 1481.)

24 **GENERAL ALLEGATIONS**

25 14. Defendant contends that she earned a Doctor of Nursing Practice from Vanderbilt
26 University.

27 15. Defendant contends that after earning her doctorate as a Nurse Practitioner, her
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1 patients “were so proud of her they started calling me ‘Dr. Sarah’.” Defendant also contends that
2 her supervising physician told Defendant that she needed to “own my degree” and had his staff
3 call her “Dr. Sarah” in the office and with patients.

4 16. In approximately 2018, Defendant opened and began operating a business called
5 “Holistic Women’s Healing,” wherein Defendant provided medical services and products to
6 patients. The business included an online digital presence advertising Defendant’s medical
7 services and products at www.holisticwomenshealing.com. Additionally, the business had a
8 physical office in Arroyo Grande, with street and door signage as “Holistic Women’s Healing,”
9 wherein Defendant performed medical services for patients and sold medical products.

10 17. Defendant has continuously maintained, operated, and controlled various online
11 digital presences on social media accounts wherein she described herself as “Dr. Sarah” and “Dr.
12 Sarah Erny” in a prominent manner. Her business offered medical services and medical products.

13 18. Defendant’s supervising and collaborating physician beginning in October 2018
14 was Dr. Anika Moore, an obstetrician-gynecologist. During the approximate three years of
15 supervision by Dr. Moore, Dr. Moore’s OBGYN medical practice was located outside San Luis
16 Obispo County, primarily in Santa Maria, California, and outside the State of California.

17 19. Defendant contends Dr. Moore would travel from out of state every two to three
18 months for a weekend to review approximately 20% of Defendant’s patient files.

19 20. From October 2018 until March 2022, Defendant regularly saw eight to ten
20 patients daily on Monday, Wednesday, and Friday at her office in Arroyo Grande. Upon
21 information and belief, it is alleged that most of Defendant’s patients were unaware of the
22 supervisory and collaborative arrangement between Defendant and Dr. Moore.

23 21. In addition to medical services and products, Defendant prescribed medication to
24 her patients. The Controlled Substance Utilization Review and Evaluation System (“CURES”)
25 stores Schedule II, III, IV, and V controlled substance prescription information in California.
26 Defendant’s CURES entries from late 2018 to mid-2020 show she wrote more than 1600
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1 prescriptions for Schedule 2-4 drugs, with a majority being schedule 3 drugs for over 250
2 patients.

3 22. Defendant and Dr. Moore terminated their collaborative/supervisory business
4 relationship on March 7, 2022.

5 **I.**

6 **FIRST CAUSE OF ACTION**

7 **BUSINESS & PROFESSIONS CODE SECTION 17910**

8 23. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 23,
9 inclusive, as though fully set forth here.

10 24. Business and Professions Code section 17900 provides that “the filing a fictitious
11 business name certificate is designed to make available to the public the identities of persons
12 doing business under the fictitious name.” “The purpose...is to protect those dealing with
13 individuals or partnerships doing business under fictitious names.” (Business and Professions
14 Code section 17900, subpart (a)(1).)

15 25. Section 17910 mandates that every person in California who regularly transacts
16 business under a fictitious business name shall file a fictitious business name statement.

17 26. Here, Defendant had a physical sign on the street and the entrance door of her
18 office in Arroyo Grande entitled, “Holistic Women’s Healing.” Likewise, Defendant operated a
19 website domain of www.holisticwomenshealing.com wherein Defendant promoted the sale of
20 her medical services and drug supplements. Medical services prices listed online ranged from
21 \$130 to \$350.

22 27. Defendant failed to obtain and file a fictitious business certificate for her business
23 “Holistic Women’s Healing” from January 2020 through December 2021, violating section
24 17910 of the Business & Professions Code.

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1 **II.**

2 **SECOND CAUSE OF ACTION**

3 **BUSINESS & PROFESSIONS CODE SECTIONS 2054, 2278, & CODE OF**
4 **REGULATIONS SECTION 1481 (Title 16)**

5 28. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 27,
6 as though fully set forth here.

7 29. Defendant SARAH ANNE ERNY violated Business and Professions Code
8 sections 2054 and 2278 and California Code of Regulations, Title 16, section 1481, by holding
9 herself out to the public and to patients as “Dr. Sarah Erny” while performing medical services
10 and selling medical products as a Nurse Practitioner.

11 **III.**

12 **THIRD CAUSE OF ACTION**

13 **BUSINESS & PROFESSIONS CODE SECTIONS 17200 et seq.**

14 **Unfair Business Practice**

15 30. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 29,
16 inclusive, as though fully set forth here.

17 31. Defendant has engaged in unlawful, unfair, and fraudulent acts, omissions, and
18 practices that constitute unfair competition within Business and Professions Code Sections
19 17200 through 17208, as alleged above and in the First and Second Causes of Action.
20 Accordingly, unless enjoined by order of the Court, Defendants may or will continue in the
21 course of conduct as alleged in this Complaint.

22 32. In addition to the acts, omissions, and practices described the in First and Second
23 Causes of action, Defendant also described herself as “Dr. Sarah Erny” with third-party digital
24 healthcare platform companies such as “Healthgrades” and “Sharecare” located at
25 www.healthgrades.com and www.sharecare.com. These online digital platforms are third-party
26 owned and controlled businesses that seek to serve as a centralized digital hub for the public and
27 healthcare providers. However, the companies permit health care providers to input information
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1 about their practices to the public. Defendant described herself as “Dr. Sarah Erny” within these
2 third-party digital platforms. In so doing, Defendant violated California laws as alleged in the
3 Second Cause of action. Furthermore, Defendant also unfairly elevated her position among other
4 registered Nurse Practitioners within these digital platforms who had correctly identified
5 themselves as “N.P.” for Nurse Practitioner.

6 33. Further, commercial digital search engines such as Google can populate search
7 results to capture Defendant’s title as “Dr. Sarah Erny.” As a result, the public is misled to
8 believe that Defendant is a medical doctor.

9 <https://www.holisticwomenshealing.com> > ... ⓘ
10 **Dr. Sarah Erny - Holistic Women's Healing**
11 I'm Dr. Sarah **Erny**. ... Practitioner who is passionate about helping women find the **healing** they
12 need in life through **holistic** practices and emotional work.

13 34. Based on the above, the People request injunctive relief against Defendants under
14 Business and Professions Code Section 17203 and civil penalties under Business and
15 Professions Code Section 17206, as described in the People’s prayer for relief.

16 IV.

17 **FOURTH CAUSE OF ACTION**

18 **BUSINESS & PROFESSIONS CODE SECTIONS 17500 et seq.**

19 **False Advertising Law**

20 35. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 34,
21 inclusive, as though fully set forth here.

22 36. According to False Advertising Law, beginning at section 17500 of the Business
23 and Professions Code, it is unlawful for a business to advertise in a manner known, or which by
24 the exercise of reasonable care should be understood, to be untrue or misleading.”

25 37. Defendant, as a nursing medical professional with a doctorate in nurse
26 practitioner, owes a duty to accurately promote her credentials while performing and advertising
27 her professional medical services to the public. Both the Medical Board of California and the
28 Registered Nursing Board’s paramount priority is to protect the public. Elevating her doctorate
by encouraging patients to call her “Dr. Sarah” improperly shifts the burden of understanding

1 the scope of services a registered nurse can perform. Even more so with the statement, “I’m
2 Doctor Sarah, a nurse practitioner,” when California law prescribes who is permitted to say
3 “I’m a doctor” to a patient or the public.¹

4 38. Based on the above, the People request injunctive relief against Defendants under
5 Business and Professions Code Section 17535 and civil penalties under Business and
6 Professions Code Section 17536, as described in the People’s prayer for relief.

7 **PRAYER**

8 WHEREFORE, the plaintiff prays for judgment as follows:

- 9 1. Permanently enjoin Defendant from violating Business and Professions Code
10 Section 2054 of the Business and Professions Code;
- 11 2. Assess a civil penalty against Defendant for each violation of Business and
12 Professions Code Sections 17206 and 17536, according to proof;
- 13 3. Award the People their costs of suit, including costs of the investigation; and
14 4. Grant such other relief as the Court deems just and equitable.

15 Dated: October 26, 2022

Respectfully submitted,

16 DAN DOW, District Attorney
17 County of San Luis Obispo, State of California

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19 By 
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KENNETH JORGENSEN
21 Deputy District Attorney
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27 ¹ Nationwide studies indicate the uncertainty of medical titles. See the American Medical Association’s
28 “Truth in Advertising” <https://www.ama-assn.org/system/files/2020-10/truth-in-advertising-campaign-booklet.pdf>.
Patients are unsure who is—and who is not—a physician. A survey found that 39% of the public believe a Doctor of
Nursing Practice was a medical doctor. It also found that 19% of the public believed a Nurse Practitioner was a
medical doctor.