

STATE OF NEW YORK

1643--A

2021-2022 Regular Sessions

IN SENATE

January 14, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the executive law, in relation to requiring certain non-licensed professionals to disclose information regarding risks

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 391-w to read as follows:

3 § 391-w. Self-help practitioner disclosure requirements. 1. Definitions:
4

5 (a) "Self-help practitioner" means any individual, his or her agent or
6 employee, or company that is publicly holding himself or herself out as
7 a "self-help guru" or other similar term in advertising or marketing and
8 is offering paid help to a client through financial, spiritual or educa-
9 tional guidance for the sake of improving personal awareness, identify-
10 ing and developing personal talent and potential, enhancing the quality
11 of life of a person and/or contributing to the realization of personal
12 aspirations. A "self-help practitioner" shall not include any individ-
13 ual licensed pursuant to the provisions of title eight of the education
14 law and such licensed individuals shall be exempt from any requirements
15 of this article.

16 (b) "Large print format" shall mean a printed font size of sixteen
17 points or larger.

18 (c) "Sweat lodge ceremonies" shall mean any ceremony that uses heated
19 rocks in which the individual is subjected to long periods of exposure
20 to intense heat, including but not limited to rites of preparation,
21 prayer, purification, or any other ritual or therapeutic sweating.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD05428-06-2

1 (d) "Trust exercise" shall mean any activity developed for the purpose
2 of group therapy or team building that involves putting an individual in
3 a vulnerable position requiring him or her to depend on other group
4 members for physical support.

5 (e) "Strength exercise" shall mean physical acts using any part of an
6 individual's body to break, bend, or otherwise destroy another object,
7 including but not limited to breaking bricks, blocks, boards, or bending
8 steel.

9 (f) "Coercive control techniques" shall mean activities that seek to
10 change behaviors either on a group or individual level, including but
11 not limited to neuro-linguistic programming, public shaming, and sharing
12 of personal trauma in a public setting or large group.

13 (g) "Qualifying emergency" shall mean:

14 (i) a federal, state or local state of emergency has been declared.

15 (ii) severe weather or any other similar circumstance exists that may
16 result in an individual being placed in imminent danger of death or
17 injury, or may result in a building structure and/or its fixtures being
18 at risk of significant damage.

19 2. Every self-help practitioner that offers services to clients shall:

20 (a) at the time of each initial contract for services, provide the
21 client with a copy of the contract in which a disclosure of risk is
22 displayed in large print format. Such disclosure of risk shall clearly
23 explain, in plain language, that what the risks are in contracting with
24 such self-help practitioner. Such disclosure shall include the follow-
25 ing:

26 (i) Disclosure of risk of serious injury, bodily harm, psychological
27 harm, or death in relation to specific activities, events, and services
28 offered. Such activities may include, but are not limited to, sweat
29 lodge ceremonies, sensory deprivation, food deprivation, water depri-
30 vation, sleep deprivation, social isolation, exposure to loud noises or
31 music, fire walking, hypnosis, activities using an axe or any weapon
32 defined in section 265.00 of the penal law, tests of endurance, breath
33 manipulation to limit oxygen levels and induce altered mental states,
34 trust exercises, rope and other obstacle courses, hikes, rappelling,
35 strength exercises, and coercive control techniques.

36 (ii) A financial disclaimer that clearly and conspicuously states that
37 the self-help practitioner is not certified or registered to give
38 personal financial advice, whether as an attorney, accountant, or finan-
39 cial advisor.

40 (iii) A provision that clearly and conspicuously states all necessary
41 information to cancel and, if an available option, request a refund for
42 services, events, and activities not rendered.

43 (b) at the time of each initial contract for services, provide the
44 client with a copy of any credentials, training, or certifications held
45 by the self-help practitioner.

46 (c) produce a comprehensive risk management plan to ensure that steps
47 will be taken at each service or session of an activity to provide
48 protection for clients in the event that there is a reasonable expecta-
49 tion of risk of physical or emotional harm or a qualifying emergency.
50 Such activities may include, but are not limited to, sweat lodge ceremo-
51 nies, sensory deprivation, food deprivation, water deprivation, sleep
52 deprivation, social isolation, exposure to loud noises or music, fire
53 walking, hypnosis, activities using an axe or any weapon defined in
54 section 265.00 of the penal law, tests of endurance, breath manipulation
55 to limit oxygen levels and induce altered mental states, trust exer-
56 cises, rope and other obstacle courses, hikes, rappelling, strength

1 exercises, and coercive control techniques. Such comprehensive risk
2 management plan shall include the following:

3 (i) A detailed itemized list of emergency resources and their
4 locations, including but not limited to water, food, medical supplies,
5 and cooling and heating tents.

6 (ii) A detailed outline of the necessary actions by the self-help
7 practitioner or other sponsors of the activity in providing timely
8 notification to the responsible municipal, county, state agency or offi-
9 cial in the event of a qualifying emergency.

10 (iii) An emergency contact list for the self-help practitioner, event
11 leadership, and on-site medical professionals as required by paragraph
12 (d) of this subdivision, to be distributed to members attending the
13 activity.

14 (iv) Location of emergency exits, forms of egress in the event of a
15 fire or similar emergency, and location of shelter-in-place gathering
16 points.

17 (d) be responsible for ensuring that licensed professionals, including
18 but not limited to, medical professionals, social workers and psychol-
19 ogists, are made available to clients at each session or service when
20 there is a reasonable expectation of physical or emotional risk or if
21 any activity that requires a comprehensive risk management plan to be
22 developed in accordance with paragraph (c) of this subdivision is taking
23 place.

24 3. A violation by any self-help practitioner of subdivision two of
25 this section, if such violation constitutes the first such offense by
26 such self-help practitioner, is punishable by a civil penalty not to
27 exceed two hundred fifty dollars. A second offense and any offense
28 committed thereafter is punishable by a civil penalty not to exceed five
29 hundred dollars.

30 § 2. The executive law is amended by adding a new section 109-a to
31 read as follows:

32 § 109-a. Registration of self-help practitioners. 1. For purposes of
33 this section, "self-help practitioner" shall mean any individual, his or
34 her agent or employee, or company that is publicly holding himself or
35 herself out as a "self-help guru" or other similar term in advertising
36 or marketing and who is offering paid help to a client through finan-
37 cial, spiritual or educational guidance for the sake of improving
38 personal awareness, identifying and developing personal talent and
39 potential, enhancing the quality of life of a person and/or contributing
40 to the realization of personal aspirations. A "self-help practitioner"
41 shall not include any individual licensed pursuant to the provisions of
42 title eight of the education law; such licensed individuals shall be
43 exempt from any requirements of this article.

44 2. The secretary of state shall promulgate rules and regulations
45 prescribing a registration form to be used by any self-help practitioner
46 who provides self-help services to clients.

47 3. Such registration form shall identify:

48 (a) the name, address, and telephone number of the self-help practi-
49 tioner; and

50 (b) a brief description of the nature of the self-help services
51 provided to each identified client.

52 4. Such registration shall be filed with the department of state and
53 shall cover a twelve month reporting period.

54 5. The secretary of state shall post the completed forms on the
55 department of state's website within thirty days of the close of each
56 reporting period.

1 6. The department of state may impose a civil penalty of up to seven
2 hundred fifty dollars upon any self-help practitioner who fails to file
3 a registration required by this section provided, however, that the
4 secretary of state shall provide such self-help practitioner a reason-
5 able opportunity to cure such a failure.

6 7. The department of state shall adopt, amend and rescind rules and
7 regulations defining the degree and extent of self-help services neces-
8 sary to require the reporting pursuant to this section.

9 8. Any representations disseminated in any manner or by any means
10 including digitally or by statement, word, design, device, sound or any
11 combination thereof, for the purpose of inducing, or which are likely to
12 induce, directly or indirectly, by any reasonable person, that the self-
13 help practitioner, his or her product, or his or her credentials are
14 endorsed, directly or indirectly, by the state as a result of such self-
15 help practitioner's registration in accordance with section three
16 hundred ninety-one-w of the general business law shall be prohibited.

17 9. The department of state shall impose a civil penalty of up to seven
18 hundred fifty dollars upon any self-help practitioner who is in
19 violation of subdivision eight of this section.

20 § 3. This act shall take effect on the ninetieth day after it shall
21 have become a law.