

STATE OF NEW YORK

4846--B

2019-2020 Regular Sessions

IN SENATE

March 27, 2019

Introduced by Sens. SKOUFIS, METZGER -- 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 -- 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:

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

§ 391-v. Self-help practitioner disclosure requirements. 1. Definitions:

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

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

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

(a) at the time of each initial contract for services, provide the client with a copy of the contract in which a disclosure of risk is displayed in large print format. Such disclosure of risk shall clearly

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

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1 explain, in plain language, that what the risks are in contracting with
2 such self-help practitioner;

3 (b) at the time of each initial contract for services, provide the
4 client with a copy of any credentials, training, or certifications held
5 by the self-help practitioner; and

6 (c) produce a comprehensive risk management plan to ensure that steps
7 will be taken at each service or session to provide protection for
8 clients in the event that there is a potential risk of physical or
9 emotional harm. Every self-help practitioner shall be responsible for
10 ensuring that licensed professionals, including but not limited to,
11 medical professionals, social workers and psychologists, are made avail-
12 able to clients at each session or service when there is a possibility
13 of physical or emotional risk.

14 3. A violation by any self-help practitioner of subdivision two of
15 this section, if such violation constitutes the first such offense by
16 such self-help practitioner, is punishable by a civil penalty not to
17 exceed two hundred fifty dollars. A second offense and any offense
18 committed thereafter is punishable by a civil penalty not to exceed five
19 hundred dollars.

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

22 § 109-a. Registration of self-help practitioners. 1. For purposes of
23 this section, "self-help practitioner" shall mean any individual, his or
24 her agent or employee, or company that is publicly holding himself or
25 herself out as a "self-help guru" or other similar term in advertising
26 or marketing and who is offering paid help to a client through finan-
27 cial, spiritual or educational guidance for the sake of improving
28 personal awareness, identifying and developing personal talent and
29 potential, enhancing the quality of life of a person and/or contributing
30 to the realization of personal aspirations. A "self-help practitioner"
31 shall not include any individual licensed pursuant to the provisions of
32 title eight of the education law; such licensed individuals shall be
33 exempt from any requirements of this article.

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

37 3. Such registration form shall identify:

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

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

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

44 5. The secretary of state shall post the completed forms on the
45 department of state's website within thirty days of the close of each
46 reporting period.

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

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

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