STATE OF NEW YORK

5658--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 22, 2021

Introduced by M. of A. GALEF, SEAWRIGHT, SIMON, GUNTHER, DINOWITZ, FORREST -- Multi-Sponsored by -- M. of A. COOK, HYNDMAN -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- 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-w to read as follows:

§ 391-w. 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.

(c) "Sweat lodge ceremonies" shall mean any ceremony that uses heated rocks in which the individual is subjected to long periods of exposure

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

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to intense heat, including but not limited to rites of preparation, prayer, purification, or any other ritual or therapeutic sweating.

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

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

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

(g) "Qualifying emergency" shall mean:

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

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

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 explain, in plain language, what the risks are in contracting with such self-help practitioner. Such disclosure shall include the following:

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

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

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

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

(c) produce a comprehensive risk management plan to ensure that steps will be taken at each service or session of an activity to provide protection for clients in the event that there is a reasonable expectation of risk of physical or emotional harm or a qualifying emergency. Such activities may include, but are not limited to, sweat lodge ceremonies, sensory deprivation, food deprivation, water deprivation, sleep deprivation, social isolation, exposure to loud noises or music, fire walking, hypnosis, activities using an axe or any weapon defined in section 265.00 of the penal law, tests of endurance, breath manipulation to limit oxygen levels and induce altered mental states, trust exer-

cises, rope and other obstacle courses, hikes, rappelling, strength exercises, and coercive control techniques. Such comprehensive risk management plan shall include the following:

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

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

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

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

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

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

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

§ 109-a. Registration of self-help practitioners. 1. For purposes of this section, "self-help practitioner" shall mean 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 who 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; such licensed individuals shall be exempt from any requirements of this article.

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

3. Such registration form shall identify:

(a) the name, address, and telephone number of the self-help practitioner; and

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

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

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

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

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

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

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

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