

STATE OF NEW YORK

1643--B

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 -- 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. Defi-
4 nitions:

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

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

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

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

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

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

15 (g) "Qualifying emergency" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 3. Such registration form shall identify:

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

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

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

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

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

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

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

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

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