

STATE OF NEW YORK

4722

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. MCGOWAN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to disclosures required in advertisements using the title "coach"

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
2 350-b-2 to read as follows:

3 § 350-b-2. Disclosures required in advertisements using the title
4 "coach". 1. (a) For purposes of this section, the title "coach" shall
5 mean a professional designation, credential, certification, or profes-
6 sional description that indicates the person using such title has
7 special skills, knowledge, expertise, experience or training in the
8 provision of services designed to assist a client in achieving one or
9 more of the client's specific goals, tasks, objectives, or aspirations
10 relating to a specific field or activity, by providing instruction,
11 education, advice, guidance, counseling, training, direction, support,
12 encouragement, motivation or other forms of assistance designed to aid
13 the client in developing, improving, managing and maintaining the
14 skills, abilities, behaviors, or attitudes necessary for the client's
15 growth, development, improvement and overall success in such field or
16 activity.

17 (b) The requirements of this section shall be applicable to any person
18 or business who uses any one of the following designations: accountabil-
19 ity coach, business coach, career coach, communication coach, conflict
20 coach, creativity coach, dating coach, divorce coach, empowerment coach,
21 executive coach, fitness coach, financial coach, health coach, invest-
22 ment coach, leadership coach, life coach, motivational coach, nutrition
23 coach, productivity coach, recovery coach, relationship coach, social
24 media coach, spiritual coach, strategic coach, transitional coach, trav-
25 el coach, wellness coach, or any similar designation indicating special

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

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1 knowledge and expertise in an unlicensed profession or field in which
2 credentials are not required, including designation as an advisor,
3 expert, guru, influencer or master.

4 2. (a) Any person or business who uses a "coaching" designation in
5 making representations for the purpose of inducing, or which are likely
6 to induce, directly or indirectly, the purchase of the individual's
7 services shall clearly and prominently disclose, in any advertisement
8 and in writing to any prospective client at the initial meeting or
9 consultation with such prospective client, the basis or source of such
10 coaching designation, including whether the coaching designation was
11 created by the person or business using it. Such person or business
12 shall disclose that he, she or it is not a licensed professional. For
13 the purposes of this section, "clearly and prominently" means:

14 (1) in written communications, including print and those made through
15 an electronic medium, including but not limited to any communications
16 appearing on any discussion board, marketplace, social media website or
17 similar platform or service, the message shall be in a type size suffi-
18 ciently noticeable for an ordinary consumer to read and comprehend it,
19 in type that contrasts with the background against which it appears; and

20 (2) in oral communications, the message shall be delivered in a volume
21 sufficient for an ordinary consumer to hear it and comprehend it. Such
22 message shall be in understandable language and syntax regardless of how
23 the message is disseminated.

24 (b) If any communication is presented solely through oral, written, or
25 visual means, the message disseminated pursuant to paragraph (a) of this
26 subdivision shall be made through the same means.

27 (c) The requirements of this subdivision supplement, and shall not be
28 construed to limit, the obligations of any professional registered or
29 licensed pursuant to any other section of law and regulations there-
30 under, nor shall they be construed to authorize the practice of any
31 licensed profession nor the offer of professional services by any unli-
32 icensed person.

33 3. Such person shall not reference any specific diagnosis or mental
34 disorder classified within the most recently published edition of the
35 "Diagnostic and Statistical Manual of Mental Disorders (DSM)" published
36 by the American Psychiatric Association ("APA") or any specific diagno-
37 sis or procedure code included within the most recently published
38 revision of the International Statistical Classification of Diseases and
39 Related Health Problems("ICD").

40 4. In addition to any civil penalty available under section three
41 hundred fifty-d of this article, whenever there shall be a violation of
42 this section, application may be made by the attorney general in the
43 name of the people of the state of New York to a court or justice having
44 jurisdiction by a special proceeding to issue an injunction, and upon
45 notice to the defendant of not less than five days, to enjoin and
46 restrain the continuance of such violation; and if it shall appear to
47 the satisfaction of the court or justice that the defendant has, in
48 fact, violated this section, an injunction may be issued by such court
49 or justice, enjoining and restraining any further violations, without
50 requiring proof that any person has, in fact, been injured or damaged
51 thereby. In connection with any such proposed application, the attorney
52 general is authorized to take proof and make a determination of the
53 relevant facts and to issue subpoenas in accordance with the civil prac-
54 tice law and rules. In any such proceeding, the court may make allow-
55 ances to the attorney general as provided in paragraph six of subdivi-

1 tion (a) of section eighty-three hundred three of the civil practice law
2 and rules, and direct restitution.

3 § 2. This act shall take effect on the one hundred twentieth day after
4 it shall have become a law.