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:

Section 1. The general business law is amended by adding a new section 350-b-2 to read as follows:

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

(b) The requirements of this section shall be applicable to any person or business who uses any one of the following designations: accountability coach, business coach, career coach, communication coach, conflict coach, creativity coach, dating coach, divorce coach, empowerment coach, executive coach, fitness coach, financial coach, health coach, investment coach, leadership coach, life coach, motivational coach, nutrition coach, productivity coach, recovery coach, relationship coach, social media coach, spiritual coach, strategic coach, transitional coach, travel 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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knowledge and expertise in an unlicensed profession or field in which credentials are not required, including designation as an advisor, expert, guru, influencer or master.

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

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

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

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

(c) The requirements of this subdivision supplement, and shall not be construed to limit, the obligations of any professional registered or licensed pursuant to any other section of law and regulations thereunder, nor shall they be construed to authorize the practice of any licensed profession nor the offer of professional services by any unlicensed person.

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

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

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

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