

## CHAPTER 2023-289

### Committee Substitute for House Bill No. 1205

An act relating to advertisements for legal services; creating s. 501.139, F.S.; defining terms; specifying prohibited practices relating to advertisements for legal services; requiring persons and entities that issue advertisements for legal services to solicit certain clients to include specified information and statements in such advertisements; providing requirements for such written and verbal statements; providing that the person or entity that issues an advertisement for legal services is solely responsible for ensuring such advertisements comply with specified provisions; providing media entities with immunity from liability for disseminating another person's or entity's advertisement for legal services which violates specified provisions; providing applicability; prohibiting the use, obtaining, sale, transfer, or disclosure of a consumer's protected health information for a specified purpose without written authorization; providing an exception; providing that certain violations are deemed deceptive and unfair trade practices; providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.139, Florida Statutes, is created to read:

501.139 Advertisements for legal services.—

(1) As used in this section, the term:

(a) "Advertisement for legal services" means any representation disseminated in any manner through a media entity for the purpose of soliciting prospective clients for legal services. The term includes such solicitation by a person with the intent to transfer data obtained from the consumer to one or more attorneys for legal services.

(b) "Media entity" means a radio broadcast station, a television broadcast station, a cable television company, a newspaper company, a periodical company, a billboard company, an advertising agency, a digital media platform, or a bona fide news or public interest website operator.

(c) "Protected health information" has the same meaning as provided in 45 C.F.R. s. 160.103.

(d) "Solicit" means attempting to procure a client for legal services by initiating unsolicited personal, telephone, or real-time electronic contact or by advertising such services through print media, video or audio recorded advertisements, or electronic communications.

(2) A person or an entity that issues an advertisement for legal services may not do any of the following:

(a) Present the advertisement as a medical alert, health alert, drug alert, or public service announcement or use any substantially similar phrase that suggests to a reasonable consumer that the advertisement is offering professional or medical advice or advice from a state or federal governmental entity or an entity approved by or affiliated with a state or federal governmental entity.

(b) Display the logo of a state or federal governmental entity in a manner that suggests to a reasonable consumer that the advertisement is presented by a state or federal governmental entity or an entity approved by or affiliated with a state or federal governmental entity.

(c) Use the term “recall” when referring to a product that has not been recalled in accordance with applicable state or federal regulations.

(3) A person or an entity that issues an advertisement for legal services to solicit clients who may allege injury from a prescription drug or medical device approved by the United States Food and Drug Administration shall include all of the following in the advertisement:

(a) The statement, “This is a paid advertisement for legal services,” which must appear at the beginning of the advertisement.

(b) The identity of the sponsor of the advertisement.

(c) Either the identity of the attorney or the law firm that will be primarily responsible for providing the solicited legal services to a consumer who engages the attorney or the law firm in response to the advertisement or an explanation of how a responding consumer’s case will be referred to an attorney or a law firm if the sponsor of the advertisement is not licensed to practice law.

(d) A statement that the prescription drug or medical device approved by the United States Food and Drug Administration remains approved unless it has been recalled in accordance with applicable state or federal regulations.

(e) The statement, “Consult your physician before making any decision regarding prescribed medication or medical treatment.”

(4) The statements required to appear in an advertisement under this section must be made in both written and verbal formats, except that a print-only advertisement may include the statements in written format only and an audio-only advertisement may include the statements in verbal format only.

(a) Required written statements must appear in a clear and conspicuous font and manner and, for visual advertisements, must appear on screen for a sufficient length of time for a reasonable consumer to read the statement. A written statement is presumed to comply with the requirements of this subsection if it appears in the same font style and size and for the same duration as a printed reference to the telephone number or website that a

consumer is to use to contact the entity for the advertised legal services, provided that such duration is at least 10 seconds.

(b) Required verbal statements must be audible, intelligible, and presented with equal prominence and speed as the other parts of the advertisement. A verbal statement is presumed to comply with the requirements of this subsection if it is made at approximately the same volume and uses approximately the same number of words per minute as used when presenting other information in the advertisement which is not required under this section.

(5) The person or entity that issues an advertisement for legal services is solely responsible for ensuring that such advertisement complies with this section, and a media entity may not be held liable or subjected to any penalty for producing, distributing, transmitting, displaying, publishing, or otherwise disseminating another person's or entity's advertisement for legal services which violates this section.

(6) This section does not apply to an advertisement that has been reviewed and approved by an ethics or disciplinary committee of The Florida Bar in accordance with its rules of professional conduct.

(7) A person or an entity may not use, cause to be used, obtain, sell, transfer, or disclose a consumer's protected health information to another person or entity for the purpose of soliciting the consumer for legal services without written authorization from that consumer. This subsection does not apply to the use or disclosure of protected health information to an individual's legal representative in the course of any judicial or administrative proceeding or as otherwise permitted or required by law.

(8) A violation of this section is deemed a deceptive and unfair trade practice subject to enforcement under part II of this chapter.

(9) This section does not limit or otherwise affect the authority of The Florida Bar to regulate the practice of law, enforce its rules of professional conduct, or discipline any person admitted to practice law in this state.

Section 2. This act shall take effect July 1, 2023.

Approved by the Governor June 23, 2023.

Filed in Office Secretary of State June 23, 2023.