

26 501.2106 Non-medical solicitation; deceptive and unfair
 27 trade practices.-

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

29 (a) "Client" means a prospective customer, client, or
 30 patron of non-medical professional services.

31 (b) "Non-medical solicitation" means a paid solicitation
 32 for non-medical professional services which contains information
 33 about a drug or device as defined in s. 499.003 and which is
 34 directed to the public through television; radio; the Internet,
 35 including a domain name; a newspaper or other periodical; an
 36 outdoor advertising sign; or another written, electronic, or
 37 recorded communication.

38 (c) "Person" has the same meaning as in s. 1.01(3).

39 (2) A person who submits or approves the submittal of a
 40 non-medical solicitation for publication, broadcast, or
 41 dissemination, or who pays for or otherwise sponsors a non-
 42 medical solicitation, commits a deceptive and unfair trade
 43 practice under this part if the solicitation, once published,
 44 broadcast, or disseminated, does any of the following:

45 (a) Fails to clearly and conspicuously disclose at the
 46 outset of the solicitation the phrase, "This is a paid
 47 advertisement for non-medical services."

48 (b) Includes terminology implying that the advertisement
 49 is a "medical alert," "health alert," "consumer alert," "public
 50 service announcement," or similar public alert or announcement.

51 (c) Displays the logo, or a similar facsimile thereof, of
52 a federal or state governmental agency in a manner implying
53 affiliation with, or sponsorship by, a governmental agency.

54 (d) Includes terminology, including use of the term
55 "recall" when referring to a product, implying that the product
56 has been recalled when, in fact, the product has not been
57 recalled by a governmental agency or through agreement between a
58 manufacturer and a governmental agency.

59 (e) Fails to clearly and conspicuously disclose the
60 sponsor of the advertisement.

61 (f) Fails to clearly and conspicuously disclose the
62 individual or entity that will provide professional services to
63 persons responding to the advertisement or how those persons
64 will be referred to such individual or entity.

65 (g) Solicits clients who may allege injury from a
66 prescription drug approved or cleared by, or which is the
67 subject of a monograph authorized by, the United States Food and
68 Drug Administration and fails to clearly and conspicuously
69 disclose the following warning: "Do not stop taking a prescribed
70 medication without first consulting with your doctor.
71 Discontinuing a prescribed medication without your doctor's
72 advice can result in injury or death."

73 (h) Solicits clients who may allege injury from a
74 prescription drug or medical device approved or cleared by, or
75 which is the subject of a monograph authorized by, the United

76 States Food and Drug Administration and fails to clearly and
 77 conspicuously disclose that the drug or medical device remains
 78 approved by the United States Food and Drug Administration,
 79 unless the product is recalled or withdrawn.

80 (i) Fails to present any disclosure required by this
 81 subsection such that:

82 1. A written disclosure is clearly legible and, if
 83 televised or displayed electronically, is displayed for
 84 sufficient time to enable the viewer to easily see and fully
 85 read the disclosure.

86 2. A spoken disclosure is plainly audible and clearly
 87 intelligible.

88 Section 2. Effective October 1, 2022, section 877.025,
 89 Florida Statutes, is created to read:

90 877.025 Solicitation of non-medical services; wrongful use
 91 or disclosure of protected health information.-

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

93 (a) "Person" has the same meaning as in s. 1.01(3).

94 (b) "Protected health information" has the same meaning as
 95 provided in 45 C.F.R. s. 106.103.

96 (c) "Solicit" means to offer to provide professional
 97 services by written, recorded, or electronic communication or by
 98 in-person, telephone, or real-time electronic contact.

99 (2) A person may not use, cause to be used, obtain, sell,
 100 transfer, or disclose to another person an individual's

101 protected health information, without that individual's written
102 authorization, to solicit professional services.

103 (3)(a) A person who violates subsection (2) commits a
104 deceptive and unfair trade practice subject to the penalties and
105 remedies provided in part II of chapter 501.

106 (b) A person who willfully and knowingly violates
107 subsection (2) commits a misdemeanor of the first degree,
108 punishable as provided in s. 775.082 or s. 775.083.

109 (c) A person who willfully and knowingly violates
110 subsection (2) with intent to sell, transfer, or use protected
111 health information for financial gain commits a felony of the
112 second degree, punishable as provided in s. 775.082, s. 775.083,
113 or s. 775.084, except that the term of imprisonment may not
114 exceed 10 years and the fine must be more than \$10,000 but may
115 not exceed \$250,000.

116 (4) This section does not apply to the disclosure of
117 protected health information to an attorney, or the attorney's
118 use of such protected health information, in any judicial or
119 administrative proceeding or any other use or disclosure
120 otherwise authorized or required by law.

121 Section 3. Except as otherwise expressly provided in this
122 act, this act shall take effect July 1, 2022.