

26 (a) "Advertisement for legal services" means a
 27 solicitation for legal services through a media entity,
 28 including solicitation through a media entity by a person with
 29 the intent to transfer data obtained from the consumer to an
 30 attorney for legal services.

31 (b) "Media entity" means a radio broadcast station,
 32 television broadcast station, cable television company,
 33 newspaper company, periodical company, billboard company,
 34 advertisement agency, media platform, or bona fide news or
 35 public interest website operator.

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

38 (d) "Solicit" means offering to provide legal services by
 39 print, video, audio recording, or electronic communication or by
 40 personal, telephone, or real-time electronic contact.

41 (2) An advertisement for legal services may not do any of
 42 the following:

43 (a) Present the advertisement as a medical alert, health
 44 alert, drug alert, public service announcement, or substantially
 45 similar phrase that suggests to a reasonable person the
 46 advertisement is offering professional, medical, or state or
 47 federal government agency advice about any medication or medical
 48 device rather than legal services.

49 (b) Display the logo of a state or federal government
 50 agency in a manner that suggests to a reasonable person the

51 advertisement is presented by a state or federal government
52 agency or by an entity approved by or affiliated with a state or
53 federal government agency.

54 (c) Use the term "recall" when referring to a product that
55 has not been recalled pursuant to applicable state or federal
56 law.

57 (3) An advertisement for legal services soliciting a
58 client who may allege injury from a medication or medical device
59 approved by the United States Food and Drug Administration must
60 include all of the following:

61 (a) The following statements at the beginning of the
62 advertisement:

63 1. This is a paid advertisement for legal services.

64 2. Consult your physician before making decisions
65 regarding prescribed medication or medical treatment.

66 (b) A statement that the medication or medical device is
67 approved by the United States Food and Drug Administration,
68 unless the medication or medical device has been recalled
69 pursuant to applicable state or federal law.

70 (c) The identity of the sponsor of the advertisement.

71 (d)1. The identity of the attorney or law firm primarily
72 responsible for providing legal services to a person who engages
73 the attorney or law firm in response to the advertisement; or

74 2. The process for referencing the case of a person who
75 responds to the advertisement to an attorney or law firm if the

76 sponsor of the advertisement is not legally authorized to
77 provide legal services.

78 (4) (a) The statements required to appear in an
79 advertisement for legal services under subsection (3) must be
80 made in written and verbal formats, except as follows:

81 1. If the statements appear in an advertisement for legal
82 services that is in print format only, including a newspaper or
83 other periodical advertisement, the statements must be made in
84 writing.

85 2. If the statements appear in an advertisement for legal
86 services that is in audible format only, including a radio
87 advertisement, the statements must be made verbally.

88 (b) A written statement required to appear in an
89 advertisement for legal services pursuant to this subsection
90 must be presented clearly, conspicuously, and for a sufficient
91 length of time for a reasonable viewer to see and read the
92 statement. A court may determine that a written statement in an
93 advertisement is in compliance with this paragraph if the
94 statement is presented in the same font size and style as a
95 printed reference to the telephone number or website of the
96 entity to contact for the legal services solicited in the
97 advertisement.

98 (c) A verbal statement required to appear in an
99 advertisement for legal services pursuant to this subsection
100 must be audible, intelligible, and presented with equal

101 prominence as the other parts of the advertisement for a
102 reasonable listener to hear the statement. A court may determine
103 that a verbal statement is in compliance with this paragraph if
104 the statement is presented at approximately the same volume and
105 uses approximately the same number of words per minute as the
106 longest duration of voiceover in the advertisement other than
107 the voiceover for information required under subsection (3).

108 (5) A person may not sell, transfer, or disclose protected
109 health information to another person or use or obtain such
110 information for the purpose of soliciting a person for legal
111 services without written authorization from the person who is
112 the subject of the information.

113 (6) A violation of this section is a deceptive and unfair
114 trade practice and constitutes a violation of the Florida
115 Deceptive and Unfair Trade Practices Act. A person who violates
116 this section commits a deceptive and unfair trade practice and
117 is subject to the penalties and enforcement of remedies under
118 part II of this chapter.

119 (7) This section does not apply to:

120 (a) The use or disclosure of protected health information
121 to the legal representative of a person in the course of any
122 judicial or administrative proceeding or as otherwise permitted
123 or required by state or federal law.

124 (b) A media entity that produces or publishes any
125 advertisement found to be in violation of this section.

HB 1205

2023

126 (8) The distribution, transmission, or display of any
127 advertisement, including an advertisement for legal services, by
128 a media entity is not a violation of this section.

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