

By Senator Yarborough

4-00496A-23

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1                   A bill to be entitled  
2       An act relating to truth in legal advertising;  
3       creating s. 501.139, F.S.; defining terms; specifying  
4       prohibited practices relating to advertisements for  
5       legal services; requiring persons and entities that  
6       issue advertisements to solicit certain clients to  
7       include specified information and statements in such  
8       advertisements; providing for both written and verbal  
9       statements in advertisements for legal services;  
10      providing requirements for such written and verbal  
11      statements; providing that the person or entity that  
12      issues an advertisement is solely responsible for  
13      ensuring its compliance with specified provisions;  
14      providing media entities with immunity from liability  
15      for disseminating another person's or entity's  
16      advertisement that violates specified provisions;  
17      providing applicability; prohibiting the use,  
18      obtaining, sale, transfer, or disclosure of a  
19      consumer's protected health information for a  
20      specified purpose without written authorization;  
21      providing an exception; providing that certain  
22      violations are deemed deceptive and unfair trade  
23      practices; providing construction; providing an  
24      effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

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

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30 501.139 Advertisements for legal services.-

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

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

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

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

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

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

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

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

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

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

72       (a) The statement, "This is a paid advertisement for legal  
73 services," which must appear at the beginning of the  
74 advertisement.

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

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

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

87       (e) The statement, "Consult your physician before making

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88 any decision regarding prescribed medication or medical  
89 treatment."

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

95 (a) Required written statements must appear in a clear and  
96 conspicuous font and manner and, for visual advertisements, must  
97 appear on screen for a sufficient length of time for a  
98 reasonable consumer to read the statement. A written statement  
99 is presumed to comply with the requirements of this subsection  
100 if it appears in the same font style and size and for the same  
101 duration as a printed reference to the telephone number or  
102 website that a consumer is to use to contact the entity for the  
103 advertised legal services, provided such duration is at least 10  
104 seconds.

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

113 (5) The person or entity that issues an advertisement for  
114 legal services is solely responsible for ensuring that such  
115 advertisement complies with this section, and a media entity may  
116 not be held liable or subjected to any penalty for producing,

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117 distributing, transmitting, displaying, publishing, or otherwise  
118 disseminating another person's or entity's advertisement for  
119 legal services which violates this section.

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

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

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

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

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