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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

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DIGEST

SB 346 Original 2020 Regular Session Peacock

Present law provides relative to the Unfair Trade Practices and Consumer Protection Law.

Proposed law prohibits an advertisement for legal services from doing any of the following:

- (1) Present the advertisement as a medical alert, health alert, drug alert, public service announcement, or substantially similar phrase that suggests to a reasonable viewer the advertisement is offering professional, medical, or government agency advice about medications or medical devices rather than legal services.
- (2) Display the logo of a federal or state government agency in a manner that suggests to a reasonable viewer the advertisement is presented by a federal or state government agency or by an entity approved by or affiliated with a federal or state government agency.
- (3) Use the term "recall" when referring to a product that has not been recalled by a government agency or through an agreement between a manufacturer and government agency.

Proposed law defines "advertisement for legal services" (advertisement) as a solicitation of legal services through television, radio, newspaper, or other periodical, or other written, electronic, or recorded communication.

Proposed law requires an advertisement to make the following disclosures:

- (1) At the beginning of the advertisement, state "This is a paid advertisement for legal services".
- (2) The identity of the sponsor of the advertisement.
- (3) The identity of the attorney or law firm primarily responsible for providing solicited legal services to a person who engages the attorney or law firm in response to the advertisement, or the manner in which a responding person's case is referred to an attorney or law firm if the sponsor of the advertisement is not legally authorized to provide legal services to clients.

Proposed law requires an advertisement soliciting clients who may allege an injury from a prescription drug approved by the United States Food and Drug Administration (FDA) to include a verbal and printed statement: "Do not stop taking a prescribed medication without first consulting a physician".

Proposed law provides that in an advertisement soliciting clients who may allege an injury from a prescription drug or medical device approved by the FDA shall include a verbal and printed

statement indicating that the drug or medical device remains approved by the FDA, unless the product has been recalled by a government agency or through an agreement between a manufacturer and government agency.

Proposed law provides format requirements for printed and verbal statements in an advertisement.

Proposed law provides that if a printed or verbal statement meets the requirements of proposed law, the court may find the advertisement complies with proposed law.

Also provides that any violation of proposed law shall be a deceptive and unfair trade practice and shall subject the violator to any and all penalties provided for in the Unfair Trade Practices and Consumer Protection Law.

Proposed law provides for the review of the advertisement by the La. State Bar Association. Provides that if an advertisement is approved as being compliant with the law, the sponsor shall not be subject to action against him under the Unfair Trade Practices and Consumer Protection Law unless all the following occur:

- (1) The attorney general demanded that the sponsor of the advertisement cease further dissemination of the advertisement.
- (2) The sponsor of the advertisement is given a reasonable amount of time to ensure the advertisement is withdrawn from dissemination to the public.
- (3) The sponsor of the advertisement fails to ensure the advertisement is withdrawn from dissemination to the public within the time provided.

Proposed law provides that a person shall not use, cause to be used, obtain, sell, transfer, or disclose protected health information to another person for the purpose of soliciting an individual for legal services without written authorization from the individual who is the subject of the information. Provides that any person who violates proposed law shall be subject to all penalties provided in the Unfair Trade Practices and Consumer Protection Law.

Proposed law 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.

Proposed law provides that it shall not limit or otherwise affect the authority of the supreme court to regulate the practice of law, enforce the La. Rules of Professional Conduct, or discipline persons admitted to the state bar.

Effective August 1, 2020.

(Adds R.S. 51:3211-3213)