CHAPTER 605

PRESCRIPTION DRUG ADVERTISING

§2700-A. Prohibitions

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. [PL 2011, c. 461, §5 (RP).]

B. "Manufacturer of prescription drugs" or "manufacturer" means a manufacturer of prescription drugs or biological products or an affiliate of the manufacturer or a labeler that receives prescription drugs or biological products from a manufacturer or wholesaler and repackages those drugs or biological products for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 Code of Federal Regulations, 2027.20 (1999). [PL 2005, c. 392, §1 (NEW).]

B-1. "Prescriber" means a person who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice. [PL 2007, c. 362, §1 (NEW).]

C. "Regulated advertisement" means the presentation to the general public of a commercial message regarding a prescription drug or biological product by a manufacturer of prescription drugs that is:

(1) Broadcast on television or radio from a station that is physically located in the State;

(2) Broadcast over the Internet from a location in the State; or

(3) Printed in magazines or newspapers that are printed, distributed or sold in the State. [PL 2005, c. 392, §1 (NEW).]

[PL 2011, c. 461, §5 (AMD).]

2. Regulated advertisement requirement. Beginning October 15, 2005, a manufacturer may not present or cause to be presented in the State a regulated advertisement, unless that advertisement meets the requirements concerning misbranded drugs and devices and prescription drug advertising of federal law and regulations under 21 United States Code, Sections 331 and 352(n) and 21 Code of Federal Regulations, Part 202 and state rules.
[PL 2005, c. 392, §1 (NEW).]

2-A. Software prohibition. Beginning January 1, 2008, a person may not sell or distribute in the State computer software that influences or attempts to influence a prescribing decision of a prescriber to prescribe a certain drug or that directs a patient to a certain pharmacy. Features of computer software that are prohibited include, but are not limited to, pop-up and other advertisements, instant messages and economic incentives that are triggered by or in specific response to a selection, act or other input or designation of pharmacy by the prescriber or an agent of the prescriber. This subsection does not apply to in-house equipment provided within a hospital for use by prescribers and the hospital pharmacy or to information provided to a prescriber about prescription drug formulary compliance, patient care management or pharmacy reimbursement.
[PL 2007, c. 362, §2 (NEW).]

3. Disclosure of clinical trials of prescription drugs.

[PL 2011, c. 461, §5 (RP).]

4. Fees.

[PL 2011, c. 461, §5 (RP).]

5. Public education initiative.
[PL 2011, c. 461, §5 (RP).]

6. Penalties.
[PL 2011, c. 461, §5 (RP).]

7. Rulemaking.
[PL 2011, c. 461, §5 (RP).]

SECTION HISTORY

PL 2005, c. 392, §1 (NEW). PL 2005, c. 589, §2 (AMD). PL 2005, c. 683, §B17 (AMD). PL 2007, c. 327, §§2, 3 (AMD). PL 2007, c. 362, §§1, 2 (AMD). PL 2011, c. 461, §5 (AMD).