OFFICE OF LEGISLATIVE RESEARCH
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ResearchReport

Connecticut Drug Advertisement Restrictions

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Issue

Briefly summarize the restrictions Connecticut law places on prescription drug advertisements.

Summary

Connecticut laws place several restrictions on drug advertisements by drug retailers and pharmacies, such as (1) prohibiting false advertising, (2) requiring pharmacies to clearly state the period a prescription drug's advertised price remains in effect, and (3) requiring certain disclosures (e.g., the drug name, certain ingredient information, and a summary of side effects).

Additionally, drug retailers and pharmacies must comply with federal Food and Drug Administration (FDA) requirements for prescription drug advertising and Federal Trade Commission (FTC) requirements for advertising on over-the-counter (OTC) drugs. According to the FDA, prescription drug advertisements must include at least one approved use for the drug, the drug's generic name, and all associated risks of its use. For OTC drugs, the FTC requires claims made in advertisements to be truthful and non-deceptive. Because of associated health and safety issues, the FTC encourages advertisers to substantiate their claims (e.g., with reliable scientific evidence including tests, studies, or other objective data).

Drug Retailers

Connecticut's Retail Drug Control Act places various restrictions on prescription drug advertising by drug retailers, including prohibiting the following:

1. using advertising that is intentionally inaccurate in any material or mispresents their merchandise or that of their competitors (e.g., in its use, quality, or quantity);
2. using advertising or selling methods that tend to deceive or mislead the customer;
3. using advertising that asserts a policy or continuing practice that generally undersells competitors;
4. secretly giving anything of value to a customer or his or her employee or agent to influence a sale or an inaccurate bill;
5. selling or offering for sale any merchandise on a condition that involves elements of chance (e.g., lottery); and
6. allowing any demonstrator or sales employee that is paid by a manufacturer or distributor to work at their establishment unless the person has been clearly identified as the manufacturer's or distributor's agent (CGS § 21a-127).

These restrictions apply to drug retailers, who are people, firms, or corporations that sell at retail any form of drugs, medicines, and medical supplies. It does not include health professionals (i.e., physicians, dentists, or veterinarians) who dispense these products as part of their professional practice (CGS § 21a-126).

Pharmacies

Connecticut's Pharmacy Practice Act (1) requires pharmacists to disclose how long an advertised retail prescription drug price will remain in effect and (2) prohibits unregistered nonresident pharmacies from advertising within the state.

Prescription Drug Advertising

By law, a pharmacist may advertise retail prescription drug prices based on a prescribing practitioner's prescription, so long as each advertisement clearly states the period for which the advertised price remains in effect. The advertisement cannot include any statement indicating the advertised price is subject to change without notice. The pharmacist must also disclose, upon request, the price of any prescription drug to any prospective purchaser (CGS § 20-611).

Nonresident Pharmacies

Connecticut law prohibits any (1) nonresident pharmacy without a state registration certificate from advertising its services in Connecticut or (2) state resident from advertising the pharmacy services for that nonresident pharmacy, if the person knows that the advertisement will or is likely to induce residents to use the pharmacy for prescriptions (CGS § 20-630).

Uniform Food, Drug and Cosmetic Act

The state Uniform Food, Drug and Cosmetic Act places several restrictions on drug advertisements, which include all representations, other than labeling, that are distributed to induce drug purchases. A "drug" is an item (1) recognized by the U.S. Pharmacopoeia, official Homeopathic Pharmacopoeia, or the U.S. or official National formulary; (2) intended to diagnose, cure, mitigate, treat, or prevent disease in humans or animals; (3) intended to affect the structure or any body function in a human or animal, other than food; and (4) intended for use as a component in any of the items listed above (CGS § 21a-92).

Prohibited Acts

The act prohibits, among other things: (1) distributing any false drug advertising within Connecticut, (2) altering, mutilating, destroying, obliterating, or removing any drug labeling that results in a violation of the act; and (3) using interstate commerce in advertising any drug that represents or suggests that the drug's application is effective under or complies with federal or state law for new drugs (CGS § 21a-93).

Required Disclosure

By law, for prescription drugs distributed or offered for sale in Connecticut, the manufacturer, packer, or distributor must include in advertisements a statement of (1) the established name that is prominently printed in a type that is at least half as large as those used for the trade or brand name, (2) the formula showing quantitatively each ingredient of the drug, and (3) other information in a brief summary relating to side effects and effectiveness, unless the drug is exempt under federal law (CGS § 21a-106).

False Advertisements

The state Food, Drug and Cosmetic Act also prohibits drug advertisements that are false or misleading. This includes any statement either directly or indirectly implying the drug is recommended or endorsed by any federal or state agency, unless the agency approved the statement beforehand (CGS § 21a-113).

Additionally, the act generally deems drug advertisements that represent it as having any effect on certain diseases as false. These diseases include, among others, appendicitis, bone disease, cancer, measles, pneumonia, smallpox, tuberculosis, or sexually transmitted diseases (CGS § 21a-114). But it is not deemed to be false if the advertisement (1) is disseminated only to members of the medical, dental or veterinary professions; (2) only appears in scientific periodicals of these professions; (3) or for public health education purposes to those who are not commercially interested in the sale of these drugs.

The act allows the Department of Consumer Protection commissioner and agricultural experiment station director, to jointly adopt regulations when they agree that medical advances have made self-medication safe to allow advertisements of drugs that have curative or therapeutic effects on these diseases.

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