
DIGEST

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HB 445 Original

2019 Regular Session

Amedee

Abstract: Provides limitations, prohibitions, requirements, procedures, and penalties with respect to advertising practices for legal services.

Proposed law provides definitions for "advertisement" and "soliciting".

Proposed law prohibits the presentation of advertisements as a "medical alert," "health alert," "consumer alert," "public service announcement," or similar phrase; prohibits the displaying of the logo of a federal or state government agency; and prohibits using the term "recall" when referring to a product that has not been recalled by a government agency.

Proposed law requires disclosures that identify the advertisement as being a paid advertisement for legal services, that identify the sponsor of the advertisement, and that either identify the attorney or law firm that provides legal services or identify the manner in which a case is referred to an attorney or law firm if the sponsor of the advertisement is not legally authorized to provide legal services.

Proposed law provides required warning in advertisements regarding prescription drugs and medical devices approved by the U.S. Food and Drug Administration.

Proposed law requires warning and disclosures to be presented clearly and conspicuously, and that such verbal disclosures be audible and intelligible.

Proposed law authorizes the attorney general or prosecuting attorney to bring an action in the name of the state against the person to restrain that act or practice by temporary or permanent injunction.

Proposed law provides that if a court issues a permanent injunction to restrain and prevent a violation of proposed law, the court may make an additional order requiring restitution to a victim for medical expenses or other expenses related to the violation.

Proposed law authorizes the attorney general or the prosecuting attorney to bring an action for a civil penalty in an amount not to exceed \$20,000 for each violation, and provides that each advertisement that violates proposed law constitutes a separate violation.

Proposed law authorizes the attorney general or prosecuting attorney to recover reasonable expenses incurred in obtaining a civil penalty, including court costs, attorney fees, investigative costs, witness fees, and deposition expenses, and specifies that the civil penalty is in addition to injunctive relief or any other remedy authorized by proposed law.

Provides that proposed law may not be construed to limit or otherwise affect the authority of the Supreme Court of Louisiana to regulate the practice of law, enforce the Louisiana Rules of Professional Conduct, or discipline persons admitted to the state bar.

Provides that proposed law applies prospectively only.

Effective on Sept. 1, 2019.

(Adds R.S. 37:223 - 229)