2024 Regular Session

HOUSE BILL NO. 815

BY REPRESENTATIVE BILLINGS

HEALTH/LDH: Provides relative to certain federally-regulated information

AN ACT

To enact Subpart E of Part IV of Chapter 5-D of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1176.1, relative to certain federally-regulated information; to require compliance with federal rules and regulations; to assign certain duties to the Louisiana Department of Health; to impose penalties; to require compliance from the Louisiana Department of Health; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart E of Part IV of Chapter 5-D of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1176.1, is hereby enacted to read as follows:

SUBPART E. RIGHT TO FEDERALLY-REGULATED AND APPROVED MEDICAL AND PHARMACEUTICAL INFORMATION

§1176.1. Right to federally-regulated drug and treatment information; prohibition of noncompliant materials; penalties

A. The Louisiana Department of Health shall ensure that all descriptive advertising and promotional materials relating to drugs, pharmaceuticals, medical devices, or vaccines created or displayed by the department follow the respective federal laws and adhere to the United States Food and Drug Administration rules regarding commercial advertising.

B.(1) The manufacturer of any drug, pharmaceutical, medical device, or vaccine whose advertisements or related promotional materials are displayed or distributed by the Louisiana Department of Health but are determined by the department to be noncompliant with the provisions set forth in Subsection A of this Section shall receive notice from the Louisiana Department of Health within thirty days of the publication or broadcast of the noncompliant advertisement or material or within thirty days of the determination of noncompliance.

(2) The manufacturer shall remedy its noncompliance within thirty days of receiving notice.

(3) If, after notice has been received, the thirty-day-period has lapsed, and the drug, pharmaceutical, medical device, or vaccine-related advertisement or promotional material still does not comply with the provisions of this Section, it shall be subject to immediate removal from display or distribution by the Louisiana Department of Health.

C.(1) The Louisiana Department of Health shall produce only drug, pharmaceutical, medical device, or vaccine-related advertisements and promotional materials that comply with the provisions of this Section and the regulations set forth by the United States Food and Drug Administration.

(2) The Louisiana Department of Health shall promulgate rules as necessary to implement the provisions of this Section.

D. This Section shall not apply to entities regulated in accordance with the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 815 Engrossed 2024 Regular Session Billings

Abstract: Requires the La. Dept. of Health (LDH) to ensure that all descriptive advertising and promotional material relating to drugs, pharmaceuticals, medical devices, or vaccinations follow certain federal laws and rules.

Proposed law requires LDH to ensure that all descriptive advertising and promotional material relating to drugs, pharmaceuticals, medical devices, or vaccinations follow certain federal laws and rules.

Proposed law provides that the federal rules and regulations relative to commercial advertisement shall apply.

Proposed law provides that notice of noncompliance shall be given to the manufacturer of the drug, pharmaceutical, medical device, or vaccine-related advertisement or promotional material within 30 days of such noncompliant advertisements or promotional material or within thirty days of the determination of noncompliance.

Proposed law requires the manufacturer to remedy its noncompliance within 30 days of receiving notice.

Proposed law provides that if, after notice has been received and the 30-day period has lapsed, the drug, pharmaceutical, medical device, or vaccine-related advertisement or promotional material shall be subject to immediate removal from display or distribution by LDH if it continues to be noncompliant.

Proposed law requires LDH to produce only advertisements and promotional materials that comply with the provisions of proposed law and federal regulations.

(Adds R.S. 40:1176.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Change references from "medical treatment" to "medical device".

2. Change references from "publication or broadcast" to "display or distribution by LDH".

3. Remove proposed law provision that requires LDH to utilize existing staff to implement proposed law.

4. Require all descriptive advertising and promotional material relating to drugs, pharmaceuticals, medical devices, or vaccinations to comply with the Federal Food, Drug, and Cosmetic Act.

5. Provide that notice of noncompliance shall be given to the manufacturer of the drug, pharmaceutical, medical device, or vaccine-related advertisement or promotional material within 30 days of the noncompliant advertisements or promotional material or within 30 days of the determination of noncompliance.

6. Make technical corrections.