Article - Health - General

[Previous][Next]

§21–248.

(a) In addition to any finding that may be made under § 21-247 of this subtitle and except as otherwise provided in this section, an advertisement is considered to be false if it represents that a drug or device has any effect regarding albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, any heart or vascular disease, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), any prostate gland disorder, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, or any venereal disease.

(b) If an advertisement for a drug or device is not otherwise considered to be false under § 21-247 of this subtitle, it is not false under this section if:

(1) It is disseminated only to members of the medical, dental, or veterinary professions;

(2) It appears only in the scientific periodicals of these professions; or

(3) It is disseminated only for the purpose of public health education by a person who does not have a direct or indirect commercial interest in the sale of the drug or device.

(c) (1) An advertisement for a drug or device is not false under this section if a rule or regulation is adopted that authorizes the advertisement, as provided in this subsection.

(2) (i) If the Secretary finds that an advance in medical science has made any type of self-medication safe for the treatment of any disease or disorder named in subsection (a) of this section, the Secretary shall adopt a rule or regulation that authorizes the advertisement of any drug or device that has a curative or therapeutic effect for the disease or disorder.

(ii) A rule or regulation that authorizes an advertisement is subject to any condition or restriction that the Secretary considers necessary to protect the public health.

(d) This section does not indicate that self-medication for any disease or disorder other than the diseases and disorders named in subsection (a) of this section is safe or effective.

(e) Any representation made in the labeling of a drug or device that would be a false advertisement under this section if it appeared elsewhere, is a misbranding of the drug or device under § 21-217 of this subtitle.

[Previous][Next]