

House File 2010 - Introduced

HOUSE FILE 2010
BY GEARHART

A BILL FOR

1 An Act relating to the advertising of prescription drugs and
2 vaccines and providing civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. SHORT TITLE. This Act shall be known and may be
2 cited as the "Iowa Pharmaceutical Advertising Transparency and
3 Consumer Protection Act".

4 Sec. 2. NEW SECTION. **714.30 Pharmaceutical advertising —**
5 **restrictions.**

6 1. As used in this section, unless the context otherwise
7 requires:

8 a. "Government-sponsored" means funded in whole or in part by
9 a federal, state, local government, or an agency thereof.

10 b. "Pharmaceutical company" means any entity that
11 manufactures, markets, distributes, or sells prescription drugs.

12 c. "Prescription drug" means the same as defined in section
13 155A.3.

14 d. "Television advertisement" means any video-based
15 advertisement promoting a prescription drug or vaccine, broadcast
16 via traditional television or a digital streaming platform.

17 2. Beginning January 1, 2027, any pharmaceutical
18 company-sponsored television advertisement aired in this state
19 must comply with all of following:

20 a. Clearly and audibly state the average retail price for
21 a standard thirty-day supply or the cost of a full course of
22 treatment, whichever is higher.

23 b. Disclose all known common and serious side effects
24 and contraindications associated with the prescription drug or
25 vaccine, in plain and understandable language with equal visual
26 and auditory prominence.

27 c. Not be aired for any prescription drug until at least
28 twelve months have passed since the date of initial approval by
29 the federal food and drug administration.

30 3. Beginning January 1, 2027, any government-sponsored
31 television advertisement aired in this state must disclose all
32 known common and serious side effects and contraindications
33 associated with the prescription drug or vaccine, in plain
34 and understandable language, with equal visual and auditory
35 prominence. This requirement applies to any government-sponsored

1 television advertisement of prescription drugs or vaccines,
2 regardless of the pharmaceutical company that manufactures the
3 prescription drug or vaccine.

4 4. A violation of this section constitutes an unlawful
5 practice pursuant to section 714.16, and the attorney general
6 has all the powers enumerated in that section to enforce the
7 provisions of this section, unless otherwise stated in this
8 section. In enforcing the provisions of this section, the
9 attorney general may do any of the following:

10 a. Notwithstanding section 714.16, subsection 7, seek an
11 assessment by a district court of civil fines not exceeding fifty
12 thousand dollars per violation. In the case of a continuing
13 violation, each day of the continuing violation constitutes a
14 separate violation.

15 b. Request that a district court order a cease and desist or
16 other injunctive relief as appropriate.

17 c. Publicly disclose violative conduct for consumer awareness
18 via notice or post on the attorney general's internet site.

19 5. An enforcement action taken pursuant to this section shall
20 be in accordance with due process of law and subject to appeal to
21 the district court pursuant to sections 17A.19 and 17A.20.

22 6. The attorney general may adopt rules pursuant to chapter
23 17A as necessary or appropriate to implement the purposes of this
24 section.

25 7. Any moneys collected under this section, including
26 civil penalties, costs, attorney fees, or amounts which are
27 specifically directed, shall be paid into the consumer education
28 and litigation fund established under section 714.16C.

29 **EXPLANATION**

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill creates the Iowa pharmaceutical advertising
33 transparency and consumer protection Act in new Code section
34 714.30, and provides for civil penalties.

35 The bill provides definitions used in the new Code section

1 including "pharmaceutical company", "television advertisement",
2 "prescription drug", and "government-sponsored".

3 The bill provides that, beginning on January 1, 2027,
4 pharmaceutical companies are prohibited from airing on television
5 in Iowa any advertisement for prescription drugs or vaccines
6 without clearly and audibly stating the highest of either the
7 average retail price for a standard 30-day supply or the cost
8 of a full course of treatment. Additionally, pharmaceutical
9 companies in these television advertisements must disclose all
10 known common and serious side effects and contraindications
11 associated with the prescription drug or vaccine, in plain
12 and understandable language, with equal visual and auditory
13 prominence. The bill also prohibits pharmaceutical companies
14 from advertising on television any prescription drug until
15 one year after its approval by the federal food and drug
16 administration.

17 The bill further provides that, beginning on January 1,
18 2027, any government-sponsored television advertisement for
19 prescription drugs or vaccines aired in Iowa must disclose all
20 known common and serious side effects and contraindications
21 associated with the prescription drug or vaccine. The bill
22 specifies that this disclosure is required regardless of the
23 pharmaceutical company manufacturing the advertised prescription
24 drug or vaccine.

25 A violation of the bill constitutes an unlawful practice under
26 Code section 714.16, the Iowa consumer fraud Act, which allows
27 the attorney general to investigate, issue subpoenas, recover
28 costs of court action and any investigations, and commence civil
29 proceedings against a person found to have committed an unlawful
30 practice. The bill authorizes the attorney general to enforce
31 the new Code section using the same powers authorized under
32 the Iowa consumer fraud Act, unless otherwise stated in the
33 new Code section. The new Code section specifies particular
34 enforcement actions that the attorney general can take under
35 the new Code section, including seeking an assessment of civil

1 fines not exceeding \$50,000 per violation, requesting from a
2 district court a cease and desist order or other injunctive
3 relief as appropriate, and publicly disclosing violative conduct
4 for consumer awareness. For the purposes of the new Code
5 section, each day of any continuing violation constitutes a
6 separate violation.

7 The new Code section provides that any enforcement action
8 taken by the attorney general must be in accordance with due
9 process and is subject to appeal to the Iowa district court.

10 The attorney general may adopt rules pursuant to Code chapter
11 17A as necessary or appropriate to implement the new Code
12 section.

13 The bill provides that any moneys collected, including
14 civil penalties, costs, attorney fees, or amounts which are
15 specifically directed be paid into to the consumer protection
16 and litigation fund established in Code section 714.16C, a fund
17 administered by the attorney general designated for consumer
18 litigation and education purposes.