

57 federal regulations regarding:

58 (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

59 (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

60 (iii) the federal Office of the Inspector General's Compliance Program Guidance for

61 Pharmaceutical Manufacturers issued in April 2003, as amended.

62 (c) A person who is injured by a violation of this section has a private right of action
63 against a person engaged in academic detailing, if:

64 (i) the actions of the person engaged in academic detailing, that are a violation of this
65 section, are:

66 (A) the result of gross negligence by the person; or

67 (B) willful and wanton behavior by the person; and

68 (ii) the damages to the person are ~~H~~→ **reasonable, foreseeable, and** ←~~H~~ proximately
68a caused by the violations of this section.

69 (3) (a) For purposes of this Subsection, "accident and health insurer:

70 (i) is as defined in Section 31A-1-301; and

71 (ii) includes a self funded health benefit plan and an administrator for a self funded
72 health benefit plan.

73 (b) This section does not apply to a person who engages in academic detailing if that
74 person is engaged in academic detailing on behalf of:

75 (i) an accident and health insurer, including when an accident and health insurer
76 contracts with or offers:

77 (A) the state Medicaid program, including the primary care network within the state's
78 Medicaid program;

79 (B) the Children's Health Insurance Program created in Section 26-40-103;

80 (C) the state's high risk insurance program created in Section 31A-29-104;

81 (D) a Medicare plan; and

82 (E) a Medicare supplement plan;

83 (ii) a hospital as defined in Section 26-21-2;

84 (iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated
85 pharmacies;

86 (iv) an integrated health system as defined in Section 13-5b-102; or

87 (v) a medical clinic.