

# REGULATION OF CLASS-ACTION ADVERTISING



## OVERVIEW

There is currently no federal regulation of Class-Action Advertising, this has left such regulation in the hands of states. In recent years, a few states have passed legislation regulating these advertisements, but Kentucky has yet to do so. Advocates of such legislation argue that misleading or exaggerative language used in the advertisements could leave patients less likely to follow the advice of their medical professional, potentially resulting in severe injury or death.

## OUR STUDY

We surveyed a total of 1,292 participants to determine how exposure to a class action advertisements affected people's risk beliefs regarding prescription drugs. Participants were shown an advertisement for a fictional drug and were then asked to answer some questions regarding how likely they believed they were to experience side effects. This process was then repeated but this time with an advertisement for a class-action lawsuit against said drug, We found that after view the lawsuit advertisement, participant's perception of risk was heightened. This was especially true in the elderly population.

## LEGISLATION

### Florida

In 2023 Florida HB 1205 was signed into law banning the use of phrases such as "Health Alert" in class action advertisements.

### West Virginia

Bans the use of phrases such as "health alert" as well as including misleading information. A lawsuit was filed alleging a violation of free speech but the 4th circuit court ruled that the law is not unconstitutional.

### Tennessee

Bans attorneys from deceptive advertising, especially from using government logos or seals.

## FAST FACTS

- In 2019, the FDA Identified 66 cases in which people were injured after ignoring medical advice as a result of class-action advertising
- We found a significant link between the consumption of lawsuit advertisements and heightened risk beliefs regarding prescription drugs in the elderly
- West Virginia was the first state to pass a law regulating these advertisements and most states which have passed similar laws have followed the framework established by West Virginia. This includes Florida - the most recent state to pass such a law.



## CALEB NEITZEL

Phone:  
(270)590-4873

Email:  
caleb.neitzel426@topper.wku.edu