

## **An Act to Ensure Safety and Accuracy in the Prescribing of Prescription Drugs and Medical Devices**

**Policy Description:** This bill comprises three key measures for reducing the drug industry's inappropriate marketing influence over medical practitioner prescribing decisions (1) a prohibition on gifts and payments to health care practitioners from pharmaceutical and medical device manufacturers, with limited exceptions, (2) requirements that the drug industry disclose information about advertising and marketing spending, and gifts excluded from the prohibition, and the compilation of annual reports analyzing this data, and (3) an evidence-based prescriber educational outreach service<sup>1</sup> for health care professionals licensed to prescribe prescription drugs. The educational service will support clinician educators to provide physicians and other health care professionals with balanced, clinically relevant, evidence-based information on the comparative efficacy, safety, and cost-effectiveness of treatments for a particular medical condition. This will assist them in making the most appropriate prescribing decisions for their patients.

**Benefits:** These measures will help reduce health care costs by helping health care practitioners make prescribing decisions based on the quality, safety, and effectiveness of medications, rather than the drug industry's latest marketing push. With states facing continued budget deficits, prescription drug spending is an important source of cost savings. In 2007, the U.S. spent \$287 billion on pharmaceutical drugs, representing 14% of all health care expenditures and a significant driver of health care costs. The public blames drug manufacturers, in part, for high health care costs and believes the industry makes too much profit. Tackling industry marketing practices is an effective way to achieve key political goals by addressing the public's concerns and distrust with the industry.

**Gift Prohibition and Disclosure** – Drug industry marketing, which includes gifts to physicians, drives prescription drug costs because it emphasizes the newest and expensive “celebrity” drugs, rather than medications which are as or more effective and often much less expensive, like generics. In addition to television, direct mail, and internet advertising, the industry sends salespeople, or detailers, to doctor's offices with biased information and gifts to encourage doctors to prescribe their medications. Gifts include meals, pens, and trips to industry sponsored conferences.

Studies show that even the smallest gifts create a “demand for reciprocity”, and 94% of America's prescribers have received such gifts. Disclosure laws have exposed millions of dollars spent on payments to physicians and conflicts of interest. A review of Minnesota data showed that, as payments to psychiatrists increased, so did the writing of prescriptions for drugs made by those companies.

**Prescriber Education** – Prescriber Education Programs help improve medical care and save money by supporting chronic disease management and reducing purchases of unnecessary or more costly pharmaceuticals that have the same – or lesser – degree of efficacy, or medicinal value. These programs, which bring unbiased clinical data to physicians about prescription drugs, have been shown to save \$2 for every \$1 invested.

Further, the federal health reform bills in the House and Senate require greater marketing transparency and disclosure of gifts to prescriber, called "sunshine" provisions. The strongest language is in the House bill and both would prohibit states from collecting the same information. However, states would not be prohibited from collecting additional information or prohibiting gifts, which the federal bills fail to do.

**Current Practices:**

**Gift Prohibition and Disclosure** – Minnesota, Massachusetts, Vermont, West Virginia, the District of Columbia, Maine, and California have enacted laws requiring disclosure of marketing and/or advertising spending. The most effective are the Massachusetts and Vermont laws, which apply to pharmaceutical and medical device manufacturers, require reporting of specific payment amounts to providers by name, and have few exemptions. At least Minnesota, Massachusetts, and Vermont, most recently in 2009, have passed laws prohibiting gifts to prescribers. Vermont's law is the strongest. It bans all gifts to physicians, including meals and travel, with few exceptions. For allowable gifts, such as payments for speaking, consulting, or research, the law requires strict reporting and public disclosure. Starting in 2011, Vermont will publish the disclosures through a searchable website.

**Prescriber Education** – Pennsylvania's prescriber education program, called Independent Drug Information Services, is a partnership between the state and Harvard Medical School. Vermont's program is run by the University of Vermont Medical School and Maine's is a collaboration between the Maine Medical Association and the State. Massachusetts, New Hampshire, and New York are also implementing systems. Prescription Policy Choices is working with Maine, New Hampshire and Vermont to develop a multi-state initiative.

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<sup>i</sup> Prescriber education services are also known as "academic detailing" programs.