
HOUSE BILL 1399

State of Washington

58th Legislature

2003 Regular Session

By Representatives Clibborn, Campbell, Ruderman, Wallace, Moeller, Conway, McIntire, Benson, Sullivan, Kenney, Kessler, Schual-Berke, Kagi and Upthegrove; by request of Insurance Commissioner

Read first time 01/24/2003. Referred to Committee on Health Care.

1 AN ACT Relating to prescription drug marketing and disclosure;
2 adding a new section to chapter 18.64 RCW; creating new sections; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The purpose of this act is to require
6 disclosure and reporting of gifts, grants, and gratuities made by
7 pharmaceutical manufacturers, directly or indirectly, to any person or
8 entity authorized to prescribe, dispense, or purchase prescription
9 drugs in Washington.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.64 RCW
11 to read as follows:

12 (1) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Group purchasing organization" means any group of two or more
15 hospitals, nursing homes, or other health care organizations that
16 collectively purchase either directly from a manufacturer or by
17 accessing contracts through another group.

1 (b) "Health benefit plan administrator" means any person or entity
2 who manages or administers a private, self-insured health benefit plan
3 or public employee health benefit plan and any person who manages or
4 administers health benefit plans for another person, including health
5 insuring corporations and sickness and accident insurers under contract
6 to provide managerial and administrative services.

7 (c) "Pharmaceutical detailing, promotional, or marketing
8 activities" means promotional or educational activities by
9 pharmaceutical marketers directed at physicians, their staff, or other
10 health care professionals who prescribe, dispense, or administer
11 prescription drugs.

12 (d) "Pharmaceutical manufacturing company" means an entity that is
13 engaged in the production, preparation, propagation, compounding,
14 conversion, or processing of prescription drugs, either directly or
15 indirectly by extraction from substances of natural origin, or
16 independently by means of chemical synthesis, or by a combination of
17 extraction and chemical synthesis, or any entity engaged in the
18 packaging, repackaging, labeling, relabeling, or distribution of
19 prescription drugs. This term does not include pharmacists licensed
20 under this chapter.

21 (e) "Pharmaceutical marketer" means a person, agent, or
22 representative who, while employed by or under contract to represent a
23 pharmaceutical manufacturing company, engages in pharmaceutical
24 detailing, promotional activities, or other marketing of prescription
25 drugs in this state to any entity or person authorized to prescribe,
26 dispense, or purchase prescription drugs in this state.

27 (f) "Pharmacy benefit manager" means a person or business entity
28 that administers or otherwise assists with prescription drug benefit
29 services including formulary management, rebates, discounted pharmacy
30 network, mail service pharmacies, and electronic claims processing.
31 Such services may be provided on behalf of a health insurer, an
32 employer-sponsored health benefit plan, or an agency of the state.

33 (2) On or before January 1st of each year, every pharmaceutical
34 manufacturing company must disclose to the board the value, nature, and
35 purpose of any gift, fee, or payment made to any person or entity
36 licensed under Title 18 RCW who is authorized to prescribe or dispense
37 prescription drugs, hospital licensed under chapter 70.41 RCW, health
38 benefit plan administrator, group purchasing organization or pharmacy

1 benefit manager, or other entity authorized to purchase prescription
2 drugs in this state. For the purpose of this section, disclosure
3 includes any subsidy or other economic benefit provided in connection
4 with detailing, promotional, or other marketing activities by the
5 company directly or through its pharmaceutical marketers. Disclosure
6 must include both direct payments made by the company, as well as
7 indirect payments made through any other entity at the direction of or
8 with the implied or express knowledge of the company. Disclosure must
9 include the names of all persons or entities receiving the gift, fee,
10 or payment and be made in electronic format in a manner prescribed by
11 the board. Initial disclosure must be made on or before January 1,
12 2005, for the twelve-month period ending June 30, 2004. The board must
13 provide to the office of the attorney general complete access to the
14 information required to be disclosed and report annually on the
15 disclosures made under this section to the legislature and the governor
16 on or before March 1st.

17 (3) Each company subject to the provisions of this section must
18 also disclose to the board, on or before October 1, 2003, and annually
19 thereafter, the name and address of the individual responsible for the
20 company's compliance with the provisions of this section.

21 (4) The following are exempt from disclosure:

22 (a) Free samples of prescription drugs intended to be distributed
23 to patients; and

24 (b) Any gift, fee, payment, subsidy, or other economic benefit the
25 value of which in the aggregate to any entity including all of its
26 employees is less than twenty-five dollars.

27 (5) The attorney general may bring an action in Thurston county
28 superior court for injunctive relief, costs, and attorneys' fees, and
29 to impose on a pharmaceutical manufacturing company that fails to
30 disclose as required by subsection (2) of this section a civil penalty
31 of not more than ten thousand dollars per violation. Each unlawful
32 failure to disclose constitutes a separate violation.

33 (6) The board may adopt rules to implement the provisions of this
34 section.

35 NEW SECTION. **Sec. 3.** This act may be known and cited as the
36 prescription drug marketing and disclosure act.

1 NEW SECTION. **Sec. 4.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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