

GIFTS TO HEALTH CARE PRACTITIONERS

58 26 Sec. 45. NEW SECTION. 155C.1 PURPOSES.

58 27 The purposes of this chapter are to improve the public
58 28 health and the quality of prescribing and medical decision
58 29 making; promote consumer access to information relating to
58 30 medical care, marketing, and **gifts**; reduce the inappropriate
58 31 influence of **gifts** and payments on provider medical decisions;
58 32 limit annual increases in the cost of health care; and assist
58 33 the state in its role as a purchaser of health care services
58 34 and an administrator of health care programs by enabling the
58 35 state to determine the scope of advertising and marketing
59 1 costs and their effect on the cost, utilization, and delivery
59 2 of health care services.

59 3 Sec. 46. NEW SECTION. 155C.2 DEFINITIONS.

59 4 As used in this chapter, unless the context otherwise
59 5 requires:

59 6 1. "Biologic" means a biological product as defined in 42
59 7 U.S.C. } 262.

59 8 2. "Bona fide clinical trial" means any research project
59 9 that prospectively assigns human subjects to intervention and
59 10 comparison groups to study the cause and effect relationship
59 11 between a medical intervention and a health outcome.

59 12 3. "Department" means the department of administrative
59 13 services.

59 14 4. "**Gift**" means a payment, fee, food, entertainment,
59 15 travel, honorarium, subscription, advance, service, product
59 16 sample, subsidy, economic benefit, or anything of value
59 17 provided, unless consideration of equal or greater value is
59 18 received, and includes anything of value provided to a health
59 19 care practitioner for less than market value.

59 20 5. "Health care practitioner" means a health care
59 21 professional who is licensed to prescribe prescription drugs,
59 22 or a partnership or corporation consisting of such health care
59 23 professionals, or an officer, employee, agent, or contractor
59 24 of such a health care professional acting in the course of
59 25 employment, agency, or contract related to or supportive of
59 26 the provision of health care by the health care professional.

59 27 6. "Manufacturer" means a person engaged in the
59 28 manufacturing, preparing, propagating, compounding,
59 29 processing, packaging, repackaging, distributing, or labeling
59 30 of prescription drugs, biologics, or medical devices.

59 31 7. "Marketing" means any of the following activities
59 32 undertaken or materials or products made available to
59 33 practitioners or to the general public related to the transfer
59 34 of prescription drugs, biologics, or medical devices from the
59 35 producer or seller to the consumer or buyer:

60 1 a. Advertising, publicizing, promoting, or selling a
60 2 prescription drug, biologic, or medical device through any
60 3 media or method including electronically or through the
60 4 internet.

60 5 b. Activities undertaken for the purpose of influencing
60 6 the market share of a prescription drug, biologic, or medical
60 7 device or the prescribing patterns of a prescriber, including
60 8 a detailing visit or a personal appearance.

60 9 c. Activities undertaken to evaluate or improve the
60 10 effectiveness of a sales force.

60 11 d. A brochure, media advertisement or announcement,

60 12 poster, or free sample of a prescription drug, biologic, or
60 13 medical device.

60 14 8. "Medical device" means device as defined in section
60 15 155A.3.

60 16 9. "Prescription drug" means prescription drug as defined
60 17 in section 155A.3.

60 18 10. "Significant educational, scientific, or policy-making
60 19 conference or seminar" means an educational, scientific, or
60 20 policy-making conference or seminar that meets both of the
60 21 following requirements:

60 22 a. Is accredited by the accreditation council for
60 23 continuing medical education or a comparable organization.

60 24 b. Offers continuing medical education credit, features
60 25 multiple presenters on scientific research, or is authorized
60 26 by the sponsoring association to recommend or make policy.

60 27 11. "State health care program" means a program for which
60 28 the state purchases prescription drugs, biologics, or medical
60 29 devices, including but not limited to the medical assistance
60 30 program, or a state employee, corrections, or retirement
60 31 system program.

60 32 12. "Wholesaler" means wholesaler as defined in section
60 33 155A.3.

60 34 Sec. 47. NEW SECTION. 155C.3 **GIFTS** TO HEALTH CARE
60 35 PRACTITIONERS PROHIBITED.

61 1 1. A manufacturer or wholesaler, or a manufacturer's or
61 2 wholesaler's agent, who participates in a state health care
61 3 program shall not offer or give any **gift** to a health care
61 4 practitioner.

61 5 2. Notwithstanding subsection 1, the following **gifts** are
61 6 not prohibited but shall be disclosed pursuant to sections
61 7 155C.4 and 155C.5:

61 8 a. Payment to the sponsor of a significant educational,
61 9 scientific, or policy-making conference or seminar if the
61 10 payment is not made directly to a health care practitioner;
61 11 the payment is used solely for bona fide educational purposes;
61 12 and all conference or seminar activities are objective, free
61 13 from industry influence, and do not promote specific products.

61 14 b. Reasonable honoraria and payment of the reasonable
61 15 expenses of a health care practitioner who serves on the
61 16 faculty at a significant educational, scientific, or
61 17 policy-making conference or seminar pursuant to an explicit
61 18 contract with specific deliverables which are restricted to
61 19 scientific issues, not marketing efforts, and the content of
61 20 any presentation, including slides and written materials, are
61 21 determined by the health care practitioners.

61 22 c. Compensation for the substantial professional or
61 23 consulting services of a health care practitioner in
61 24 connection with a bona fide clinical trial pursuant to an
61 25 explicit contract with specific deliverables which are
61 26 restricted to scientific issues, not marketing efforts.

61 27 Sec. 48. NEW SECTION. 155C.4 DISCLOSURE OF EXEMPTED
61 28 **GIFTS.**

61 29 1. a. Annually, on or before December 1, every
61 30 manufacturer or wholesaler of prescription drugs, biologics,
61 31 or medical devices that participates in a state health care
61 32 program shall disclose to the department, the value, nature,
61 33 purpose, and recipient of any **gift** not prohibited in section

61 34 155C.3, which is provided by the manufacturer or wholesaler,
61 35 directly or through its agents, to any health care
62 1 practitioner or any other person in this state authorized to
62 2 prescribe, dispense, or purchase prescription drugs,
62 3 biologics, or medical devices in this state.

62 4 b. For each expenditure, the manufacturer or wholesaler
62 5 shall also identify the recipient and the recipient's address,
62 6 credentials, institutional affiliation, and state board or
62 7 drug enforcement agency numbers.

62 8 2. Each manufacturer or wholesaler subject to the
62 9 provisions of this section shall also disclose to the
62 10 department the name and address of the individual responsible
62 11 for the manufacturer's or wholesaler's compliance with this
62 12 section, or if this information has been previously reported,
62 13 any changes in the name or address of the individual
62 14 responsible for the manufacturer's or wholesaler's compliance
62 15 with this section.

62 16 3. The report shall be accompanied by payment of a fee, to
62 17 be established by rule of the department, to defray
62 18 administrative costs.

62 19 4. The department shall make all disclosed data publicly
62 20 available and easily searchable on its internet site.