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HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO. 12 H.D. 1

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUG COST CONTAINMENT AND AFFORDABLE ACCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 329, part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§329- Pharmaceutical marketers.** (a) Before December 31 of each year, every pharmaceutical manufacturing company shall disclose to the board of pharmacy the value, nature, and purpose of any gift, fee, payment, subsidy, or other economic benefit provided in connection with detailing, promotional activity, or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefits plan administrator, or any other person in the state authorized to prescribe, dispense, or sell prescription drugs in this state. Disclosure shall be made in a form and manner prescribed by the board of pharmacy. Initial disclosure shall be made before December 31, 2008, for the twelve-month period ending June 30, 2008. The board of pharmacy shall provide to the attorney

general complete access to the information required to be disclosed under this subsection. The attorney general shall report on the disclosures made under this section to the legislature and the governor before March 1 of each year.

(b) Each pharmaceutical manufacturing company subject to this section shall also disclose to the board of pharmacy, before October 1, 2008, and annually thereafter, the name and address of the individual responsible for the company's compliance with this section.

(c) The board of pharmacy and the attorney general shall keep confidential all trade secret information. The disclosure form prescribed by the board of pharmacy shall permit the company to identify any information that is a trade secret.

(d) The following shall be exempt from disclosure:

(1) Free samples of prescription drugs intended to be distributed to patients;

(2) The payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials. As used in this paragraph, "clinical trial" means an approved clinical trial conducted in connection with a research study designed to answer

specific questions about vaccines, new therapies, or new ways of using known treatments;

(3) Any gift, fee, payment, subsidy, or other economic benefit the value of which is less than $25; and

(4) Scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(e) The attorney general may:

(1) Bring an action for injunctive relief, costs, and attorneys fees; and

(2) Impose on a pharmaceutical manufacturing company that fails to disclose as required by subsection (a), a civil penalty of no more than $10,000 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(f) As used in this section:

"Pharmaceutical manufacturing company" or "company" means any entity that is engaged in the production, preparation,

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propagation, compounding, conversion, or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a pharmacist licensed under chapter 461.

"Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities, or other marketing of prescription drugs in this state to any physician, hospital, nursing home, pharmacist, health benefits plan administrator, or any other person authorized to prescribe, dispense, or sell prescription drugs. The term does not include a wholesale drug distributor or the distributor's representative who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

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H.B. NO. 12
H.D. 1

Report Title:
Prescription Drug Cost Containment; Disclosure of Gifts

Description:
Requires the director of human services to establish a pharmacy best practices and cost control program including medicaid and other state public assistance health benefits plans, in which any public and private health plan may participate. Includes a prescription drug preferred list and prior authorization review process. Requires drug manufacturers to disclose economic benefits of $25 or more provided to persons who prescribe, dispense, or purchase prescription drugs. (HB12 HD1)