
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:

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

4 "§329- Pharmaceutical marketers. (a) Before December
5 31 of each year, every pharmaceutical manufacturing company
6 shall disclose to the board of pharmacy the value, nature, and
7 purpose of any gift, fee, payment, subsidy, or other economic
8 benefit provided in connection with detailing, promotional, or
9 other marketing activities by the company, directly or through
10 its pharmaceutical marketers, to any physician, hospital,
11 nursing home, pharmacist, health benefits plan administrator, or
12 any other person in the state authorized to prescribe, dispense,
13 or sell prescription drugs in this state. Disclosure shall be
14 made in a form and manner prescribed by the board of pharmacy.
15 Initial disclosure shall be made before December 31, 2009, for
16 the twelve-month period ending June 30, 2009. Subsequent annual
17 disclosures shall be made before December 31 for the prior



1 twelve-month period ending on June 30. The board of pharmacy
2 shall provide to the attorney general complete access to the
3 information required to be disclosed under this subsection. The
4 attorney general shall report on the disclosures made under this
5 section to the legislature and the governor before March 1 of
6 each year.

7 (b) Each pharmaceutical manufacturing company subject to
8 this section shall also disclose to the board of pharmacy,
9 before October 1, 2009, and annually thereafter, the name and
10 address of the individual responsible for the company's
11 compliance with this section.

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

16 (d) The following shall be exempt from disclosure:

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

19 (2) The payment of reasonable compensation and
20 reimbursement of expenses in connection with bona fide
21 clinical trials. As used in this paragraph, "clinical
22 trial" means an approved clinical trial conducted in



1 connection with a research study designed to answer
2 specific questions about vaccines, new therapies, or
3 new ways of using known treatments;

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

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

13 (e) The attorney general may:

14 (1) Bring an action for injunctive relief, costs, and
15 attorney's fees; and

16 (2) Impose on a pharmaceutical manufacturing company that
17 fails to disclose as required by section (a), a civil
18 penalty of no more than \$10,000 per violation.

19 Each unlawful failure to disclose shall constitute a separate
20 violation.

21 (f) As used in this section:



1 "Pharmaceutical manufacturing company" or "company" means
2 any entity that is engaged in the production, preparation,
3 propagation, compounding, conversion, or processing of
4 prescription drugs, either directly or indirectly by extraction
5 from substances of natural origin, or independently by means of
6 chemical synthesis, or by a combination of extraction and
7 chemical synthesis, or any entity engaged in the packaging,
8 repackaging, labeling, relabeling, or distribution of
9 prescription drugs. The term does not include a pharmacist
10 licensed under chapter 461.

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



- 1 SECTION 2. New statutory material is underscored.
- 2 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Prescription Drug Cost Containment; Disclosure of Gifts

Description:

Requires drug manufacturers to disclose economic benefits of \$25 or more provided to persons who prescribe, dispense, or purchase prescription drugs. Provides for subsequent annual disclosures.

(HB12 HD2)

