

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 188 (Delegate Bromwell)
 Health and Government Operations

Pharmaceutical Manufacturing Companies - Reporting Requirements

This bill requires a pharmaceutical manufacturing company (manufacturer) doing business in the State to report annually to the Maryland Health Care Commission (MHCC) regarding the value, nature, and purpose of any gift, fee, payment, subsidy, or other economic benefit provided by the manufacturer in connection with detailing, promotional activities, or marketing to health care providers.

Fiscal Summary

State Effect: MHCC special fund expenditures and revenues could each increase by \$100,000 in FY 2004. Future year estimates reflect database maintenance and inflation. Any fines imposed by MHCC are not expected to significantly affect State finances.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
SF Revenue	\$100,000	\$50,000	\$50,500	\$51,000	\$51,500
SF Expenditure	100,000	50,000	50,500	51,000	51,500
Net Effect	\$0	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal. Small business physicians and other prescribers who receive gifts from manufacturers may lose revenues or other compensation if manufacturers stop providing gifts over \$25.

Analysis

Bill Summary: A manufacturer does not have to report: (1) free samples of a pharmaceutical product; (2) the payment of reasonable compensation and reimbursement of expenses in connection with clinical trials; (3) any gift, fee, payment, subsidy, or other economic benefit of value that is less than \$25; (4) any scholarship or other support for medical students, residents, or fellows to attend an educational, scientific, or policymaking conference; and (5) any unrestricted grants for continuing medical education.

Reports must be submitted to MHCC by January 1 each year; MHCC must compile these reports by March 1, and report to the Governor and the General Assembly.

Unless disclosure is required by a court in a legal proceeding, MHCC must keep any information concerning trade secrets confidential. When reporting to MHCC, a manufacturer must identify any information it deems to be a trade secret.

MHCC may impose a fine on a manufacturer not exceeding \$10,000 for each violation of the bill's requirements.

Current Law: There are no public disclosure requirements for drug manufacturers.

Background: With prescription drug costs skyrocketing, increasing more than 17% each of the past four years, many states have been considering legislation that would control these increases, both directly and indirectly. The drug industry spent approximately \$15.7 billion promoting drugs in 2000. Of this, the largest cost was the value of free drug samples given to physicians. Manufacturers routinely give physicians free drug samples, lunches, and office supplies with brand names. Manufacturers have also given physicians with large practices expensive trips to restaurants, resorts, and conferences. Providing physicians with drug samples and other marketing products increases the demand for specific, generally more expensive drugs and may hinder physicians from considering less-costly alternative therapies.

In 2002 Vermont became the first state to require drug manufacturer sales representatives to report all gifts to physicians worth more than \$25, hoping public disclosure would reduce the number of gifts to physicians. Approximately 15 states are considering legislation that would control drug manufacturer promotions and advertising.

The Pharmaceutical Research and Manufacturers of America (PhRMA) adopted new industry guidelines in 2002 that prohibit drug manufacturers from mixing their educational programs with entertainment and trips to resorts.

State Fiscal Effect: MHCC special fund expenditures could increase by \$100,000 in fiscal 2004 to contract with a consultant to establish a database and compile information reported from manufacturers. Future year estimates reflect: (1) \$50,000 annually for maintaining the database and extracting data for the annual report to the Governor and the General Assembly; and (2) 1% annual inflation.

MHCC is specially funded through fees imposed on payors and providers. As a result of the increase in expenditures, MHCC would raise provider fees by an amount to exactly offset the increase in expenditures.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, National Conference of State Legislatures, Pharmaceutical Research and Manufacturers of America, Department of Legislative Services

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