Pharmaceutical marketing disclosure Model Bill

Sec. 1. Definitions

(a) "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 benefit plan administrator, or any other person authorized to prescribe, dispense, or purchase 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.

(b) "Pharmaceutical manufacturing company" means any entity which is engaged in the production, preparation, 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 wholesale drug distributor or pharmacist licensed under *[Insert citation to appropriate statute]*.

Sec. 2

(a)(1) Annually on or before January 1 of each year, every pharmaceutical manufacturing company shall disclose to the *[DRAFTING NOTE: Insert your state agency here, such as Secretary of Health and Human Services, Board of Pharmacy, etc.]*

the value, nature and purpose of any gift, fee, payment, subsidy or other economic benefit provided in connection with detailing, promotional or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator or any other person in the state authorized to prescribe, dispense, or purchase prescription drugs in this state. Disclosure shall be made on a form and in a manner prescribed by the board. The board shall assess a filing fee to support the work of the board under this section. Initial disclosure shall be made on or before March 1, 2006 for the 12-month period ending December 31, 2005. On or before April 1 of each year, the board shall report to the Governor and the Legislature on the disclosures made under this section

(2) Each company subject to the provisions of this section shall also disclose to the board, on or before October 1, 2005 and annually thereafter, the name and address of the individual responsible for the company's compliance with the provisions of this section.

(3) The following shall be exempt from disclosure:

(A) free samples of prescription drugs intended to be distributed to patients;

(B) the payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials. As used in this subdivision, "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;

(C) any gift, fee, payment, subsidy or other economic benefit the value of which is less than $25.00; and

Sec. 3 Administration and Enforcement

(a) The board shall issue regulations to implement the requirements of this Act.

(b) The board or the Attorney General may bring an a civil action to enforce the provisions of this Act. The board or the Attorney General may seek injunctive relief, costs, attorneys' fees, and a civil penalty of up to $10,000 per violation. Each unlawful failure to disclose shall constitute a separate violation.