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LC02074
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – PHARMACEUTICAL MARKETING
DISCLOSURES AND PROHIBITIONS

Introduced By: Representatives Kilmartin, and Moura

Date Introduced: February 12, 2004

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 5-19.1 of the General Laws entitled "Pharmacies" is hereby
2 amended by adding thereto the following section:

3 **5-19.1-31. Pharmaceutical marketing disclosures and gift restrictions. – (a)(1)**
4 Annually on or before January 1 of each year, every pharmaceutical manufacturing company
5 shall disclose to the Rhode Island board of pharmacy the value, nature and purpose of any gift,
6 fee, payment, subsidy or other economic benefit provided in connection with detailing,
7 promotional or other marketing activities by the company, directly or through its pharmaceutical
8 marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator
9 or any other person in Rhode Island authorized to prescribe, dispense or purchase prescription
10 drugs in this state. Disclosure shall be made on a form and in a manner prescribed by the board.
11 Initial disclosure shall be made on or before January 1, 2006 for the twelve (12) month period
12 ending June 30, 2005. The board shall provide to the office of the attorney general complete
13 access to the information required to be disclosed under this subsection. The office of the
14 attorney general shall report annually on the disclosures made under this section to the general
15 assembly and the governor on or before March 1.

16 (2) Each company subject to the provisions of this section shall also disclose to the board,
17 on or before October 1, 2004 and annually thereafter, the name and address of the individual
18 responsible for the company's compliance with the provisions of this section.

1 (3) The Rhode Island board of pharmacy and the office of the attorney general shall keep
2 confidential all trade secret information, as defined in section 6-41-1(4). The disclosure form
3 prescribed by the board shall permit the company to identify any information that is a trade
4 secret.

5 (4) The following shall be exempt from disclosure:

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

7 (ii) the payment of reasonable compensation and reimbursement of expenses in
8 connection with bona fide clinical trials. As used in this subsection, "clinical trial" means an
9 approved clinical trial conducted in connection with a research study designed to answer specific
10 questions about vaccines, new therapies or new ways of using known treatments;

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

15 (b) No pharmaceutical manufacturing company may give anyone a gift, fee, payment,
16 subsidy or other economic benefit provided in connection with detailing, promotional or other
17 marketing activities by the company, directly or through its pharmaceutical marketers, to any
18 physician, hospital, nursing home, pharmacist health benefit plan administrator or any other
19 person in Rhode Island authorized to prescribe, dispense or purchase prescription drugs in this
20 state worth more than one hundred fifty dollars (\$150) or totally more than four hundred fifty
21 dollars (\$450) in each calendar year.

22 (c) The attorney general may bring an action in superior court for injunctive relief, costs,
23 and attorneys' fees and to impose on a pharmaceutical manufacturing company that fails to
24 disclose as required by subsection (a) of this section or makes gifts in excess of the limit
25 established in subsection (b) of this section a civil penalty of no more than ten thousand dollars
26 (\$10,000) per violation. Each unlawful failure to disclose an excessive gift shall constitute a
27 separate violation.

28 (d) As used in this section:

29 (1) "Pharmaceutical marketer" means a person who, while employed by or under contract
30 to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing,
31 promotional activities, or other marketing of prescription drugs in this state to any physician,
32 hospital, nursing home, pharmacist health benefit plan administrator or any other person in Rhode
33 Island authorized to prescribe, dispense or purchase prescription drugs. The term does not
34 include a wholesale drug distributor or the distributor's representative who promotes or otherwise

1 markets the services of the wholesale drug distributor in connection with a prescription drug.
2 (2) "Pharmaceutical manufacturing company" means any entity which is engaged in the
3 production, preparation, propagation, compounding, conversion, or processing of prescription
4 drugs either directly or indirectly by extraction from substances of natural origin or independently
5 by means of chemical synthesis or by a combination of extraction and chemical synthesis or any
6 entity engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription
7 drugs and also as defined in section 42-66.2-3(7).

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would require drug manufacturers and their marketers to disclose all the gifts
2 that they give to the prescribers or dispensers of prescription drugs. In addition, it would restrict
3 the monetary value of the gifts to one hundred fifty dollars per gift and four hundred fifty dollars
4 per year to each recipient.

5 This act would take effect upon passage.

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