

SUBSTITUTE FOR
HOUSE BILL NO. 4357

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 17748g and 17748h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 17748g. (1) A manufacturer or wholesale distributor,
2 including any employee or agent of the manufacturer or wholesale
3 distributor, shall not offer or give a gift to a prescriber when
4 engaged in a sales, promotional, or other marketing activity for a
5 prescription drug.
- 6 (2) The board may promulgate rules that are necessary or
7 required to implement this section.
- 8 (3) As used in this section, "gift" means a payment, an
9 advance, a forbearance, or the rendering or deposit of money,

1 services, or anything else of value, the value of which exceeds
2 \$63.00 in any 1-month period. However, gift does not include any of
3 the following:

4 (a) Providing a sample of a prescription drug to a prescriber
5 for distribution to his or her patient.

6 (b) One or more items with a total combined retail value, in
7 any 1-year period, of not more than \$63.00.

8 (c) A publication or educational material.

9 (d) A payment to the sponsor of a medical conference,
10 professional meeting, or other educational program, if the payment
11 is not made directly to a prescriber and is used solely for bona
12 fide educational purposes.

13 (e) Reasonable compensation and expense reimbursement for the
14 professional or consulting service of a prescriber, such as in
15 connection with a genuine research project.

16 (f) A salary or other benefit paid to an employee.

17 (g) Anything of value provided by the manufacturer or
18 wholesale distributor to its salaried employees.

19 (h) Reasonable compensation and expense reimbursement to a
20 prescriber who serves as a speaker or on the faculty at a
21 professional or educational conference or meeting, including a
22 conference or meeting that is organized or sponsored by the
23 manufacturer or wholesale distributor.

24 (i) Funding for a continuing medical or pharmacy education
25 activity that is consistent with the standards of the Accreditation
26 Council for Continuing Medical Education or the Accreditation
27 Council for Pharmacy Education including, but not limited to, a
28 scholarship or educational funding for continuing education.

29 (j) A modest meal provided in connection with an informational

1 presentation.

2 (k) An educational item designed primarily for the education
3 of a patient or prescriber.

4 (l) A rebate or discount as those terms are described in
5 section 4a of the health care false claim act, 1984 PA 323, MCL
6 752.1004a.

7 (4) This section does not apply to a manufacturer that
8 manufacturers drugs only for animal use.

9 Sec. 17748h. A manufacturer and wholesale distributor shall
10 provide a list to the board identifying each employee of the
11 manufacturer or wholesale distributor who engages in the sale,
12 promotion, or marketing of a prescription drug intended for human
13 use to a prescriber and shall ensure that each employee of the
14 manufacturer or wholesale distributor complies with all of the
15 following:

16 (a) That the employee provides to the prescriber, in writing,
17 the wholesale acquisition cost of a prescription drug if the
18 employee provides information concerning the prescription drug to
19 the prescriber.

20 (b) That the employee does not engage in any deceptive or
21 misleading marketing of a prescription drug, including knowingly
22 concealing, suppressing, omitting, or misstating a material fact or
23 knowingly making a misleading representation of a material fact.

24 (c) That the employee does not attend a patient examination
25 without first obtaining the consent of the patient.

26 Enacting section 1. This amendatory act does not take effect
27 unless House Bill No. 4358 of the 101st Legislature is enacted into
28 law.