

MAR 1 2005
HUMAN RESOURCES

HOUSE FILE 503
BY HOGG

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting certain gifts from pharmaceutical marketers to
2 persons authorized or licensed to prescribe, dispense,
3 distribute, or purchase prescription drugs, and providing
4 penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 503

1 Section 1. NEW SECTION. 155A.4A PHARMACEUTICAL MARKETERS
2 -- PROHIBITION OF GIFTS.

3 1. A pharmaceutical marketer shall not offer or provide to
4 any practitioner, hospital, health care facility, pharmacist,
5 or health benefit plan administrator, or any other person in
6 this state authorized or licensed to prescribe, dispense,
7 distribute, or purchase prescription drugs, any gift not
8 otherwise exempt under this section.

9 2. The following gifts are exempt from the prohibition of
10 this section:

11 a. Free samples of prescription drugs intended for
12 distribution to patients.

13 b. The payment of reasonable compensation and
14 reimbursement of expenses in connection with bona fide
15 clinical trials. As used in this paragraph, "clinical trial"
16 means a clinical trial approved by an institutional review
17 board conducted in connection with a research study designed
18 to answer specific questions about vaccines, new therapies, or
19 new ways of utilizing known treatments.

20 c. Any gift, fee, payment, subsidy, or other economic
21 benefit the value of which is less than twenty-five dollars.

22 d. A scholarship or other support for medical students,
23 residents, or fellows to attend a significant educational,
24 scientific, or policymaking conference of a national,
25 regional, or specialty medical or other professional
26 association if the recipient of the scholarship or other
27 support is selected by the association.

28 3. a. Annually on or before January 1, every
29 pharmaceutical manufacturing company shall disclose to the
30 board the value, nature, and purpose of any gift, fee,
31 payment, subsidy, or other economic benefit provided in
32 connection with detailing, promotional, or other marketing
33 activities by the company, directly or through its
34 pharmaceutical marketers, to any practitioner, hospital,
35 health care facility, pharmacist, or health benefit plan

1 administrator, or any other person in this state authorized or
2 licensed to prescribe, dispense, distribute, or purchase
3 prescription drugs in this state. Disclosure shall be made on
4 a form and in a manner prescribed by the board and shall be
5 made for the period beginning July 1 and ending June 30 of the
6 previous fiscal year. An initial disclosure shall be made on
7 January 15, 2006, for the period beginning July 1, 2005, and
8 ending December 31, 2005. The board shall provide to the
9 office of the attorney general complete access to the
10 information required to be disclosed under this subsection.
11 The office of the attorney general shall report annually on
12 the disclosures made under this section to the governor and
13 the general assembly on or before March 1.

14 b. Each pharmaceutical manufacturing company subject to
15 the provisions of this section shall also disclose to the
16 board, on or before October 1, 2005, and annually thereafter,
17 the name and address of the individual responsible for the
18 company's compliance with this section.

19 c. The board and the office of the attorney general shall
20 keep confidential all trade secrets as defined in section
21 550.2. The disclosure form prescribed by the board shall
22 permit the company to identify any information that is a trade
23 secret.

24 d. A pharmaceutical manufacturing company is exempt from
25 disclosure of any gifts that are exempt from the prohibition
26 pursuant to subsection 2.

27 e. The attorney general may bring an action for injunctive
28 relief, costs, and attorney fees, and may impose a civil
29 penalty of not more than ten thousand dollars per violation on
30 a company that fails to disclose information as required by
31 this subsection. Each failure to disclose constitutes a
32 separate violation.

33 4. For the purposes of this section:

34 a. "Pharmaceutical manufacturing company" means any entity
35 engaged in the production, preparation, propagation,

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

10 b. "Pharmaceutical marketer" means a person who, while
11 employed by or under contract to represent a pharmaceutical
12 manufacturing company, engages in pharmaceutical detailing,
13 promotional activities, or other marketing of prescription
14 drugs in this state to any practitioner, hospital, health care
15 facility, pharmacist, health benefit plan administrator, or
16 any other person licensed or authorized to prescribe,
17 dispense, distribute, or purchase prescription drugs.
18 "Pharmaceutical marketer" does not include a wholesaler or a
19 wholesale salesperson.

20 EXPLANATION

21 This bill prohibits a pharmaceutical marketer from offering
22 or providing to any practitioner, hospital, health care
23 facility, pharmacist, or health benefit plan administrator, or
24 any other person in the state authorized or licensed to
25 dispense, distribute, or purchase prescription drugs, any gift
26 not otherwise exempt under the bill.

27 The bill specifies the gifts exempt from the prohibition;
28 directs pharmaceutical manufacturing companies on an annual
29 basis to disclose gifts made to the board of pharmacy
30 examiners; directs pharmaceutical manufacturing companies on
31 an annual basis to provide the name and address of the
32 individual responsible for the company's compliance with the
33 bill; provides that all trade secrets are to be kept
34 confidential; and authorizes the attorney general to bring an
35 action for injunctive relief, costs, and attorney fees and to

1 impose a civil penalty for failure of a company to disclose
2 required information.

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