

SENATE BILL NO. 203—SENATOR DONATE

MARCH 2, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain gifts by a manufacturer or wholesaler of drugs or medical devices to a practitioner. (BDR 54-50)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pharmacy; prohibiting a wholesaler or manufacturer of drugs, medicines, chemicals or medical devices or appliances from offering or giving a gift to a practitioner; requiring the State Board of Pharmacy to provide a link on its Internet website to certain information concerning gifts provided by a manufacturer to a practitioner; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term “practitioner” to refer to persons who are authorized to prescribe and dispense prescription drugs in this State. (NRS 639.0125) **Section 2** of this bill prohibits a wholesaler or manufacturer of certain drugs, medicines, chemicals, devices or appliances or an agent of such a wholesaler or manufacturer from offering or giving a gift to a practitioner or otherwise directly or indirectly arranging, facilitating or serving as a conduit for such a gift. **Section 2** provides that certain items and expenditures, including certain expenditures for education, medical or scientific purposes or purposes relating to policy, do not constitute gifts for that purpose. A person who violates the provisions of **section 2** is subject to disciplinary action and guilty of a misdemeanor. (NRS 639.210, 639.310) **Section 3** of this bill requires the State Board of Pharmacy to post on its Internet website a link to publicly available information concerning any gift provided to a practitioner by a manufacturer that is required to be reported pursuant to federal law. (42 U.S.C. § 1320a-7h)



* S B 2 0 3 R 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A wholesaler or manufacturer or any agent of a wholesaler or manufacturer shall not offer or give any gift to a practitioner or otherwise directly or indirectly arrange, facilitate or serve as a conduit for such a gift.*

2. *As used in this section, "gift" means any payment, conveyance, transfer, distribution, deposit, advance, loan, forbearance, subscription, pledge or rendering of money, services or anything else of value, unless consideration of equal or greater value is received. The term does not include:*

(a) A sample of a drug, medical device or appliance, medical food or infant formula provided to a practitioner for distribution to a patient at no cost;

(b) A medical device or appliance loaned to a practitioner for a trial period of less than 120 days for the purpose of allowing the practitioner to evaluate the medical device or appliance;

(c) Where the evaluation of a medical device or appliance pursuant to paragraph (b) requires the use or administration of a drug, a sample of such a drug provided to a practitioner who is evaluating the medical device or appliance;

(d) A payment to the sponsor of an educational, medical, scientific or policy conference or seminar, if the payment is:

(1) Not made directly to a practitioner; and

(2) Used solely for a bona fide educational purpose;

(e) A reasonable honorarium and payment of the reasonable expenses of a practitioner who serves on the faculty at an educational, medical, scientific or policy conference or seminar;

(f) A scholarship or grant for a practitioner who is a resident or fellow to attend an educational, medical, scientific or policy conference or seminar if the recipient of the scholarship or grant is selected by the person organizing the conference or seminar;

(g) A salary paid to a practitioner who is participating in a fellowship that is funded by a grant from a manufacturer or wholesaler if:

(1) The grant is applied for by the entity that employs the fellow;

(2) The entity selects the fellow without considering the interests of the wholesaler or manufacturer; and

(3) The name of the manufacturer or wholesaler is not included or referenced in the title of the fellowship or grant;



(h) *The provision of or payment for modest meals and refreshments in connection with an educational presentation to inform a practitioner about the benefits, risks and appropriate uses of a prescription drug or medical device or other information concerning medicine or science, if the presentation:*

(1) *Is made in a venue and manner conducive to such an informational presentation; and*

(2) *Is not a program of continuing education for the practitioner;*

(i) *Compensation for the professional or consulting services of a practitioner in connection with a bona fide clinical trial or research project;*

(j) *The provision, distribution or dissemination to a practitioner of peer-reviewed academic, scientific or clinical articles or journals or other items that serve an educational function;*

(k) *A royalty or licensing fee paid to a practitioner by a wholesaler or manufacturer for the right to use or purchase a patent or other intellectual property owned by the practitioner;*

(l) *A rebate or discount for a product provided in the normal course of business;*

(m) *A drug or medical device or appliance distributed free of charge or at a discounted price as part of a patient assistance program that is sponsored or funded by a manufacturer or wholesaler;*

(n) *Anything of value received as part of bona fide employment by or service as an independent contractor of a manufacturer or wholesaler or otherwise paid for or reimbursed as part of bona fide employment by or service as an independent contractor of a manufacturer or wholesaler; or*

(o) *Anything of value received from a person who is:*

(1) *Related to the practitioner, or to the spouse or domestic partner of the practitioner, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity; or*

(2) *A member of the household of the practitioner.*

Sec. 3. *The Board shall post on its Internet website a link to information made available to the public pursuant to 42 U.S.C. § 1320a-7h concerning any gift provided to a practitioner by a manufacturer.*

Sec. 4. (Deleted by amendment.)

Sec. 5. This act becomes effective on July 1, 2023.

