



Rep. Michelle Mussman

Filed: 3/19/2019

10100HB3494ham001

LRB101 10571 SMS 58172 a

1 AMENDMENT TO HOUSE BILL 3494

2 AMENDMENT NO. _____. Amend House Bill 3494 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Physician Gift Ban Act.

6 Section 5. Definitions. As used in this Act:

7 "Gift" means any item or other thing of value that is given
8 without receiving equal or greater value in return.

9 "Labeler" means an entity or person that receives
10 prescription drugs from a manufacturer or wholesaler and
11 repackages those drugs for later retail sale and that has a
12 labeler code from the Food and Drug Administration under 21 CFR
13 207.20. "Labeler" does not include a retail pharmacy or
14 pharmacist that labels a prescription vial.

15 "Manufacturer" means a manufacturer of prescription drugs
16 as defined in 42 U.S.C. 1396r-8(k)(5), including a subsidiary

1 or affiliate of a manufacturer.

2 "Pharmaceutical representative" means a person who markets
3 or promotes prescription drugs in this State to any physician,
4 hospital, nursing home, pharmacist, health benefit plan
5 administrator, or any other person authorized to prescribe or
6 dispense prescription drugs.

7 "Physician" means a physician licensed to practice
8 medicine in all its branches under the Medical Practice Act of
9 1987.

10 "Promotion" means a gift that is given to induce the
11 physician to prescribe a medication. "Promotion" does not
12 include any of the following:

13 (1) non-cash items of minimal value that will directly
14 benefit the physician's patients, including:

15 (A) prescription drug samples for distribution to
16 patients;

17 (B) rebates and discounts for prescription drugs
18 provided in the normal course of business;

19 (C) labels approved by the federal Food and Drug
20 Administration;

21 (D) educational materials; and

22 (E) modest meals and refreshments provided to a
23 physician in connection with a meeting, presentation,
24 or medical educational symposium or conference about
25 the benefits, risks, and appropriate uses of
26 prescription drugs or medical devices, disease states,

1 or other scientific information, as long as the
2 meeting, presentation, symposium, or conference occurs
3 in a venue and manner conducive to informational
4 communication;

5 (2) funding provided to academic institutions and
6 residence and fellowship programs to support the
7 participation of medical nursing, physician assistant, and
8 pharmacy students, residents, and fellows in professional
9 meetings, including educational meetings, as long as the
10 program identifies such funding recipients based on
11 independent institutional criteria and the funds are
12 distributed to recipients without specific attribution to
13 sponsors;

14 (3) reasonable honoraria to a physician and payment of
15 the reasonable expenses of a physician at a professional or
16 educational conference or meeting; or

17 (4) any other item or thing of value that is consistent
18 with the current federal Office of Inspector General
19 Compliance Program Guidance for Pharmaceutical
20 Manufacturers and the current Pharmaceutical Research and
21 Manufacturers of America Code on Interactions with Health
22 Care Professionals.

23 Section 10. Prohibited gifts. A pharmaceutical
24 representative may not provide a physician with any promotions,
25 including, but not limited to, paid travel and prizes, to

1 induce the physician to prescribe medications.

2 Section 15. Violation of Act. Any pharmaceutical
3 representative that violates any provision of this Act shall be
4 subject to a civil penalty not to exceed \$1,000 for each
5 violation. No other penalty may be imposed for a violation of
6 this Act.".