



# Senate

General Assembly

**File No. 496**

*January Session, 2003*

Substitute Senate Bill No. 1118

*Senate, April 23, 2003*

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING PHYSICIAN REPORTING OF GIFTS FROM PHARMACEUTICAL MANUFACTURING COMPANIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) As used in this  
2 section:

3 (1) "Clinical trial" means a clinical trial approved by an institutional  
4 review board conducted in connection with a research study designed  
5 to answer specific questions about vaccines, new therapies or new  
6 ways of using known treatments.

7 (2) "Commissioner" means the Commissioner of Public Health.

8 (3) "Department" means the Department of Public Health.

9 (4) "Detailing" means a meeting between a pharmaceutical marketer  
10 and a health care provider for the purpose of discussing a  
11 pharmaceutical product being marketed by the pharmaceutical

12 marketer.

13 (5) "Pharmaceutical manufacturing company" means any entity that  
14 is engaged in the production, preparation, propagation, compounding,  
15 conversion or processing of prescription drugs, either directly or  
16 indirectly by extraction from substances of natural origin, or  
17 independently by means of chemical synthesis, or by a combination of  
18 extraction and chemical synthesis, or any entity engaged in the  
19 packaging, repackaging, labeling, relabeling or distribution of  
20 prescription drugs, but does not include a wholesale drug distributor  
21 or pharmacist licensed under chapter 400j of the general statutes.

22 (6) "Pharmaceutical marketer" means a person who, while employed  
23 by or under contract to represent a pharmaceutical manufacturing  
24 company, engages in pharmaceutical detailing, promotional activities  
25 or other marketing of prescription drugs in this state to any health care  
26 provider. "Pharmaceutical marketer" does not include a wholesale  
27 drug distributor or the distributor's representative who promotes or  
28 otherwise markets the services of the wholesale drug distributor in  
29 connection with a prescription drug.

30 (7) "Promotion" includes, but is not limited to, free meals or food,  
31 media events, gifts, trips or educational conferences.

32 (b) Every physician licensed under chapter 370 of the general  
33 statutes, chiropractor licensed under chapter 372 of the general  
34 statutes, natureopathic physician licensed under chapter 373 of the  
35 general statutes and dentist licensed under chapter 379 of the general  
36 statutes, shall file a report with the department, signed under penalty  
37 of false statement, disclosing the value, nature and purpose of any gift,  
38 fee, payment, subsidy or other economic benefit provided during the  
39 previous six months in connection with detailing, promotions or other  
40 marketing activities by a pharmaceutical manufacturing company,  
41 directly or through its pharmaceutical marketers. The report shall be  
42 made on a form prescribed by the commissioner. The first report shall  
43 be due August 1, 2004, and shall provide the required information for  
44 the six-month period from January to June, inclusive. Thereafter,

45 reports shall be due each February first and August first and shall  
46 report information for the last six months of the year and the first six  
47 months of the year, respectively.

48 (c) The following shall be exempt from disclosure pursuant to  
49 subsection (b) of this section:

50 (1) Any gift, fee, payment, subsidy or other economic benefit worth  
51 less than five dollars, other than meals or food;

52 (2) Free samples of prescription drugs intended to be distributed to  
53 patients;

54 (3) The payment of reasonable compensation and reimbursement of  
55 expenses in connection with bona fide clinical trials;

56 (4) Scholarships or donations to permit medical students, residents  
57 or fellows to attend educational conferences; and

58 (5) Educational conferences at which the products of a sponsoring  
59 pharmaceutical manufacturing company are not specifically marketed  
60 or discussed as part of the prepared presentations.

61 (d) Acting upon the complaint of any person regarding an alleged  
62 violation of this section, or upon information available to the  
63 department, the commissioner shall conduct a hearing on such  
64 complaint, in accordance with the provisions of chapter 54 of the  
65 general statutes, governing contested cases. Not later than fifteen days  
66 after the public hearing conducted in accordance with this subsection,  
67 the commissioner shall publish the finding and a memorandum of the  
68 reasons therefor. Such finding and memorandum shall be deemed to  
69 be the final decision of the commissioner on the matter for the  
70 purposes of chapter 54 of the general statutes. The respondent, if  
71 aggrieved by the finding and memorandum, may appeal therefrom to  
72 the Superior Court in accordance with the provisions of section 4-175  
73 or 4-183 of the general statutes.

74 (e) Any person who intentionally violates any provision of this

75 section shall be imprisoned for a term not to exceed one year or shall  
76 be fined an amount not to exceed two thousand dollars, or both.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

**PH**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Public Health, Dept.	GF - Cost	\$45,100	\$39,975
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	\$7,050	\$15,075
Public Health, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Attorney General	GF - Cost	None	None
Judicial Dept.	GF - Cost	None	None

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

Passage of this bill will result in an FY 04 cost to the state of approximately \$52,150. Included in this sum are \$45,100 to support the salaries of one half-time Paralegal and one half-time Office Assistant under the Department of Public Health as well as associated equipment and other expenses. Also included are \$7,050 in fringe benefit costs, which are budgeted centrally in miscellaneous accounts administered by the Comptroller<sup>1</sup>. In FY 05 the annualized cost for the two positions would be \$55,050 (\$39,975 DPH; \$15,075 fringe benefits).

These positions would be needed to develop the reporting form for use by physicians, chiropractors, natureopathic physicians and dentists; provide technical assistance to medical professionals responsible for filing the forms; and conduct hearings and publish

<sup>1</sup> The total fringe benefit reimbursement rate as a percentage of payroll is 40.21 percent, effective July 1, 2002. However, first year fringe benefit costs for new positions do not include pension costs, lowering the rate to 18.81 percent in FY 04.

resulting findings after complaints are received. It is anticipated that the Office of the Attorney General and the Superior Court would be able to handle any appeals resulting from the bill within anticipated budgetary resources.

A potential minimal revenue gain to the state may result to the extent that fines of up to \$2,000 are collected from persons found in violation of the bill's provisions.

**OLR Bill Analysis**

sSB 1118

***AN ACT CONCERNING PHYSICIAN REPORTING OF GIFTS FROM PHARMACEUTICAL MANUFACTURING COMPANIES*****SUMMARY:**

This bill requires physicians, dentists, chiropractors, and natureopaths to report twice yearly to the Department of Public Health on the gifts, fees, and other benefits they receive from drug manufacturers and their marketers. Certain types of gifts and benefits are exempted. Providers who intentionally fail to report or otherwise violate the bill's requirements are subject to a fine of up to \$2,000, imprisonment for up to one year, or both. Those who report falsely are also subject to the same penalty.

EFFECTIVE DATE: October 1, 2003

**REPORTING REQUIREMENTS*****Report Contents and Filing***

The bill requires physicians, dentists, chiropractors, and natureopaths to report on the value, nature, and purpose of any gift, fee, payment, subsidy or other economic benefit they received during the previous six months in connection with "detailing," promotions, or other marketing activities by a pharmaceutical manufacturer or through its marketers. They must sign the report under penalty of false statement.

The providers do not have to report on:

1. gifts, fees, payments, subsidies, or other economic benefits worth less than \$5, except meals or food;
2. free drug samples for distribution to patients;
3. reasonable compensation and reimbursement for expenses connected to bona fide clinical trials;

4. scholarships or donations that permit medical students, residents, or fellows to attend educational conferences; and
5. educational conferences (presumably benefits related to these) where the products of the sponsoring drug manufacturer are not specifically marketed or presented as part of prepared presentations.

The bill defines a “pharmaceutical manufacturer” as any entity, other than a licensed pharmacist or wholesale drug distributor, that (1) produces, prepares, propagates, processes, compounds, or converts prescription drugs or (2) packages, repackages, labels or relabels, or distributes them. A “marketer” is a person who works for or under contract with a manufacturer and details, promotes, or markets prescription drugs to any health care provider in Connecticut, not just those who must report. “A wholesale drug distributor” or its representatives are not marketers. “Detailing,” under the bill, is a meeting between a marketer and a health care provider to discuss a pharmaceutical product. “Promotions” include free meals or food, media events, gifts, trips, or educational conferences.

The first report, covering January to June 2004 is due August 1, 2004. Thereafter, reports must be made on January 1 and August 1 to cover the previous six months. Reports must be on DPH-prescribed forms.

**Enforcement**

If DPH receives a complaint that alleges someone violated the reporting requirements, the commissioner must hold a hearing. The hearing must be conducted as a contested case under the Uniform Administrative Procedure Act. Within 15 days after the hearing is completed, the commissioner must publish his findings and his reasons for it. This is his final decision on the matter; the person named in the complaint may appeal it to the Superior Court.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute  
Yea 13    Nay 9

