Consumers Union

NONPROFIT
PUBLISHER OF
CONSUMER REPORTS

TESTIMONY OF

CONSUMERS UNION OF U.S., INC.

BEFORE A JOINT HEARING OF THE

PUBLIC HEALTH COMMITTEES,

CONNECTICUT GENERAL ASSEMBLY

ON S.B. 270, AN ACT CONCERNING ESTABLISHMENT OF A REGIONAL POLICY ON THE PROHIBITION OF CERTAIN GIFTS FROM PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURING COMPANIES TO HEALTH CARE PROVIDERS

March 1, 2010

Presented by
Charles W. F. Bell, Programs Director,
Consumers Union of U.S., Inc.

101 Truman Avenue, Yonkers, NY 10703 • Phone: 914.378.2507 • E-mail: cbell@consumer.org

Good afternoon. My name is Charles Bell and I am the Programs Director in the advocacy and public policy division of Consumers Union, the nonprofit publisher of *Consumer Reports* and *ConsumerReports.org*. I work with our national *PrescriptionForChange.org* and *SafePatientProject.org* campaigns to advocate for safe, affordable, accessible health care, including prescription drug affordability and safety in the states and Congress.

Consumers Union strongly supports S.B.270, an act to require pharmaceutical manufacturing companies to adopt a marketing code of conduct, maintain effective training programs for sales representatives, and protect the confidentiality of prescriber data. In addition, with the exception of modest meals that take place in conjunction with informational presentations, this legislation would ban any cash payments or cash equivalents, entertainment, sporting event tickets and lavish dinners for medical providers. Finally, pharmaceutical and medical device makers would be required to disclose to the Commissioner of Public Health the nature and existence of any fees, payments or economic benefits they provide to medical providers that are above $50.

This legislation is badly needed to address rapidly escalating commercial pressures on health care providers in Connecticut. Pharmaceutical companies spend hundreds of millions of dollars each year to influence physicians to prescribe new high-cost, brand name drugs when equally effective, less expensive and often safer older brand name and generic versions may be available. These practices are ubiquitous, adding to health care cost inflation and can put patients in harms way.

We need fair rules of the road to ensure that patient care is not compromised by aggressive marketing campaigns, so that consumers receive medical advice and treatment that is based on sound medical evidence. And just as state law requires disclosure of campaign contributions and lobbying expenditures, a similar requirement should be enacted for drug companies attempting to influence physician prescribing decisions. This simple disclosure would be extremely cost-effective, and provide valuable information for consumers, physicians, state health officials and other policymakers.

Consumers Union of United States, Inc., publisher of Consumer Reports and Consumer Reports Online, is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance. Consumers Union's print and online publications have a combined paid circulation of approximately 8.5 million. These publications regularly carry articles on Consumers Union's own product testing; on health, product safety, financial products and services, and marketplace economics; and on legislative, judicial, and regulatory actions that affect consumer welfare. Consumers Union's income is solely derived from the sale of Consumer Reports, its other publications and services, and noncommercial contributions, grants, and fees. Consumers Union's publications and services carry no outside advertising and receive no commercial support. Consumers Union's mission is "to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves."

In 2005, drug companies spent more than $7 billion throughout the U.S. on one-on-one marketing to doctors (not including drug samples). This works out to about $8,400 to $15,400 per doctor per year. Studies show that such marketing works: interaction with drug company representatives were associated with changes in doctor's prescribing patterns. 94% of physicians have received food, drug samples or other reimbursements from the drug industry, according to a recent survey published in the New England Journal of Medicine.

Marketing drugs by through gifts and financial incentives to physicians and other health providers poses serious public policy problems. First, drug marketing emphasizes the latest and most expensive drugs even though these drugs may not be the best in their category, according to the medical evidence. When marketing -- rather than objective and unbiased information -- shape prescribing patterns, the cost of prescription drugs for consumers, government and health insurers will continue to rise far faster than the general rate of inflation. Second, gifts to doctors also undermine the doctor-patient relationship by creating the appearance of impropriety.

The $7 billion drug companies spent in 2003 on one-on-one marketing to doctors represents a 78% increase over 1999 levels. This amount includes direct gifts to doctors, such as expensive meals, entertainment, tickets to sporting events and travel, as well as the practice of "detailing." "Detailing" refers to the practice of pharmaceutical companies sending representatives -- essentially lobbyists for their drugs -- into doctor's offices. In 2001, the industry employed 90,000 drug company detailers -- a ratio of 1 salesperson for every 4.7 office-based physicians. The purpose of detailing is to influence prescribing behavior. Companies often buy data about the prescribing patterns of individual physicians, and then use detailers to shift those patterns.

These marketing efforts do influence behavior. In an analysis of several studies, drug company marketing efforts were associated with changes in prescribing patterns and requests to include particular medications on formularies, sometimes counter to existing efficacy evidence. In a study of residents, 84% thought that their colleagues were influenced by drug company detailing. Drug detailing can contribute to negative impacts on health care access and quality in Connecticut:

* Increasing public- and private-sector expenditures on prescription drugs: Drug detailers usually promote newer brand-name drugs which are often much more expensive than existing alternatives. Yet the newer drugs may not be any more effective than older drugs. A Pennsylvania study found that 40% of patients in a state program received hypertension medication different those recommended in medical guidelines. The state would have saved $11.6 million, or about 24% of the total cost of the hypertension drugs, if doctors adhered to the guidelines. The study suggested drug company marketing was partly responsible for the variance from medical guidelines. Similarly, a review published in The Journal of American Medical Association found negative effects associated with industry/physician marketing and financial relationships, including reduced generic prescribing, increased overall prescription rates, and quick uptake of the newest, most expensive drugs, including those that offered only marginal benefits over existing options.

* Undermining the doctor-patient relationship: Patients are concerned about drug company gift-giving. One study found that as many as 70% of patients believe gifts to doctors significantly impact prescribing. The American Medical Association editorialized that: "The price to be paid

for extravagant gifts isn't measured by the size of a drug company's marketing budget, but in the erosion of trust in the medical profession."

Several other states, most notably Maine, Vermont, Massachusetts, Minnesota and the District of Columbia have already enacted laws requiring pharmaceutical companies to disclose to a state agency the value of their marketing efforts to doctors, including gifts, detailing and other activities. In 2008, the state of Massachusetts established a comprehensive law including strong disclosure provisions and creating a mandatory code of marketing conduct that is "no less restrictive" than the PhRMA and Advanced Medical Technology Association (AdvaMed) codes, which serves as the model for S.B.270. The state of New York is also considering similar legislation.

The proposed Connecticut S.B. 270 would create fair, industry-wide guidelines for drug and medical device marketing, and shine needed badly needed light on the nature and extent of industry activities to influence physician decisions in Connecticut. This bill represents a major step forward in improving the transparency of the health care system, which is an essential precondition for preventing conflicts of interest and addressing institutional pressures that compromise patient safety and the quality of care, and also drive up the costs that all of us must pay. We believe this proposed law is very much in the interest of Connecticut consumers, and we strongly urge you to approve it.

Sources: Blumenthal, David MD. "Doctors and Drug Companies." New England Journal of Medicine. October 28, 2004.
Capaldi, Ralph as quoted in "Visits from Pharmaceutical Reps," by Elizabeth Ellen. Psychiatric Times, Vol. VIII, Issue 1, January 2001. Available at http://www.psychiatrictimes.com/p010121.html.
Boehm, Elizabeth W. "Pharma eDetails Work: Doctors Prescribe More." Wholeview TechStrategy Research. Forrester Research. June 24, 2003.
Campbell, E.G., et.al. "A National Survey of Physician-Industry Relationships," NEJM. April 26, 2007; 356(17): 1742-1750.
Fidler, Eric. "Study: Doctors Prescribe Expensive Drugs Instead of Those Preferred Under Medical Guidelines." Associated Press, April 20, 2004.Harris, Gardiner. "As Doctors Write Prescriptions, Drug Companies Write Checks," New York Times, June 27, 2004.
Lawrence, Mary Beth & Anna-Maria Zaugg. "Bruised but Triumphant." Medical Marketing & Media. May 2004, and Friedman, Katherine, Katrina Kulp, and Mary Berryann. "Business Watch: 1999 in Review." Medical Marketing & Media. May 2000.
Pew Prescription Project. "Regulating Industry Payments to Physicians: Identifying and Minimizing Conflicts of Interest," Sept. 12, 2008.
Steinman, Michael. "Gifts to Physicians in the Consumer Marketing Era." JAMA. 2000; 284:2243. Available at http://jama.ama-assn.org/cgi/content/full/284/17/2243.
Editorial Staff. "Pharmaceutical Marketing to Physicians: Free Gifts Carry a High Price." American Medical News, June 10, 2002. Available at http://www.ama-assn.org/amednews/2002/06/10/edsa0610.htm
Wazana, A. "Physicians and the Pharmaceutical Industry: Is a Gift Ever Just a Gift?" JAMA. 2000; 283(3):373-380.

For more information, contact:

Charles Bell, Programs Director
Consumers Union
101 Truman Avenue
Yonkers, NY 10703
Phone: 914-378-2507
914-830-0639
www.ConsumerReports.org
www.PrescriptionforChange.org
www.SafePatientProject.org
E-mail: cbell@consumer.org