

State Affairs

Disclosure Laws Shine a Light on Drug Company Gifts to Doctors

ADVOCACY GUIDANCE

Beginning with Vermont, a number of states have enacted or are considering drug marketing disclosure legislation as part of their efforts to control drug costs. Disclosure laws highlight the huge expenditures that drug companies make to promote predominately high cost, brand name medications to doctors, pharmacists, and other providers. Once these promotional expenditures are made a matter of public record, the case for offsetting their influence with countervailing measures becomes compelling. Drug companies spend so much on promotion because it pays off in sales of their high cost drugs. Evidence-based research, preferred drug lists, and counter-detailing can ensure that prescribers consider appropriate lower cost medications. Exposing the gifts, payments, travel, and entertainment that the drug industry lavishes on doctors and other providers, and putting a total dollar figure on them, may also have a deterrent effect, at least with respect to some of the more extravagant practices.

The Vermont Experience

Vermont was the first state to enact drug marketing disclosure legislation, and the Vermont attorney general released the state's first annual disclosure report in February 2004. Despite a state population of only 620,000 and less than 2,500 doctors, the pharmaceutical industry spent \$2,466,000 in Vermont in fiscal year 2002-3. Direct payments, in the form of "fees, cash, checks, honoraria, donations," accounted for over half the total. Upward of \$500,000 was spent on free meals.

It is noteworthy that the Vermont report reflects just a portion of actual marketing costs. Only gifts and other forms of payment to doctors and other health care providers are reported. Advertising costs, samples, and the salaries of the company representatives who do the legwork, the so-called "detailers," are excluded, as are compensation in connection with bona fide clinical trials, medical education grants, and drug rebates and discounts.

Under Vermont's disclosure law as originally enacted, the Vermont Pharmacy Board was vested with authority to administer the law. The pharmaceutical industry, in league with professional medical associations, attempted to dilute the impact of the reporting requirements by asserting influence on the Pharmacy Board. In response, AARP, the Vermont attorney general, and others succeeded in having the law amended this year to require manufacturers to report directly to the attorney general, who is empowered to enforce it. The law also now expressly requires manufacturers to report the names of payment recipients and the value, nature, and purpose of all gifts. In addition, marketers are required to disclose to