

Massachusetts General Laws Annotated Currentness  
Part I. Administration of the Government (Ch. 1-182)  
Title XVI. Public Health (Ch. 111-114)

Chapter 111N. Pharmaceutical and Medical Device Manufacturer Conduct (Refs & Annos)

**§ 2. Marketing code of conduct; adoption; prohibited practices**

Notwithstanding any general or special law to the contrary, the department shall adopt a standard marketing code of conduct for all pharmaceutical or medical device manufacturing companies that employ a person to sell or market prescription drugs or medical devices in the commonwealth. The marketing code of conduct shall be based on applicable legal standards and incorporate principles of health care including, without limitation, requirements

that the activities of the pharmaceutical or medical device manufacturer agents be intended to benefit patients, enhance the practice of medicine and not interfere with the independent judgment of health care practitioners.

In promulgating regulations for a marketing code of conduct, the department adopt regulations that shall be no less restrictive than the most recent version of the Code on Interactions with Healthcare Professionals developed

by the Pharmaceutical Research and Manufacturers of America and the Code on Interactions with Healthcare Professionals developed by the Advanced Medical Technology Association.

The marketing code of conduct adopted by the department shall not allow:

(1) the provision of or payment for meals for health care practitioners that:

(a) are part of an entertainment or recreational event;

(b) are offered without an informational presentation made by pharmaceutical marketing agent or without the pharmaceutical marketing agent being present;

(c) are offered, consumed, or provided outside of the health care practitioner's office or hospital setting; or

(d) are provided to a healthcare practitioner's spouse or other guest;

(2) the provision or payment of entertainment or recreational items of any value, including, but not limited to, tickets to the theater or sporting events, sporting equipment, or leisure or vacation trips, to any health care practitioner

who is not a salaried employee of the company;

(3) sponsorship or payment for continuing medical education, in this section referred to as CME, also known as independent medical education, that does not meet the Accreditation Council for Continuing Medical Education Standards For Commercial Support, or that provides payment directly to a health care practitioner;

(4) financial support for the costs of travel, lodging or other personal expenses of non-faculty healthcare practitioners

attending any CME event, third-party scientific or educational conference, or professional meetings,

either directly to the individuals participating in the event or indirectly to the event's sponsor, except in cases as determined by the department.

(5) funding to compensate for the time spent by health care practitioners participating in any CME event, thirdparty scientific or educational conferences, or professional meetings;

(6) the provision of or payment for meals directly at any CME event, third-party scientific or educational conferences,

or professional meetings;

(7) payments in cash or cash equivalents to healthcare practitioners either directly or indirectly, except as compensation

for bona fide services;

(8) any grants, scholarships, subsidies, support, consulting contracts, or educational or practice related items to a healthcare practitioner in exchange for prescribing prescription drugs or using medical devices or for a commitment to continue prescribing prescription drugs or using medical devices.

The marketing code of conduct adopted by the department shall allow:

(1) the provision, distribution, dissemination or receipt of peer reviewed academic, scientific or clinical information;

(2) the purchase of advertising in peer reviewed academic, scientific or clinical journals;

(3) prescription drugs provided to a health care practitioner solely and exclusively for use by the health care practitioner's patients;

(4) compensation for the substantial professional or consulting services of a health care practitioner in connection with a genuine research project or a clinical trial;

(5) payment for reasonable expenses necessary for technical training on the use of a medical device if that expense is part of the vendor's purchase contract for the device.

The department shall update the marketing code of conduct no less than every two years. The department may promulgate regulations or other guidelines as necessary to implement this section.

CREDIT(S)

Added by St.2008, c. 305, § 14, eff. Jan. 1, 2009.

Current through Chapter 34 of the 2010 2nd Annual Sess.