

The Boston Globe Panel rejects ban on drug firm gifts

Deletes bill's disclosure requirements

By Kay Lazar, Globe Staff | July 16, 2008

A hotly-debated ban on drug companies providing gifts and meals to physicians was stripped out of proposed legislation a House committee approved late yesterday.

The panel also removed requirements that drug and medical device companies report payments they make to doctors for consulting and speaking to other physicians and that the Department of Public Health post that information on its website. A proposed \$5,000 fine per violation was also dropped from the bill, which is expected to be voted on by the full House today.

Instead, the measure would simply require drug companies to adopt a marketing code of conduct, such as the one the pharmaceutical industry's trade association announced last week while negotiations on the Massachusetts bill were in progress.

That voluntary code would ban meals at restaurants and trinkets such as mugs and pens bearing the names of drug companies and products, but still allow companies to cater lunches in doctors offices and hospitals, which salespeople use to promote their products directly to physicians.

The changes infuriated some consumer groups and longtime gift-ban advocates who said the legislation would allow pharmaceutical and biotech companies to continue influencing doctors to prescribe new and typically more expensive brand-name drugs, driving up costs.

The pharmaceutical measure was just one provision of a larger bill, sponsored by Senate President Therese Murray, intended to rein in healthcare costs.

The Senate unanimously passed a version of the bill with the gift ban.

"The lobbyists said jump and, unfortunately, Beacon Hill says, 'How high,' " said Senator Mark C. Montigny, a New Bedford Democrat who first proposed a ban on drug and device company gifts to physicians in 2005. "If you are serious about taking on cost control, you have to take on the special interests and the sacred cows of the pharmaceutical industry."

The proposed legislation does, however, include a ban on pharmaceutical companies buying drug prescribing data that identify doctors or patients, a practice that companies use to hone their sales pitches.

"We are thrilled to see that included," said Lisa Kaplan Howe, a policy manager with Health Care for All, a consumer coalition. "Pharmaceutical companies use the data to give to their salespeople so they'll know what doctors are prescribing so they can tailor their messages, to know which doctors to spend more efforts on and which are a lost cause."

Patricia Walrath, House chairwoman of the Joint Committee on Health Care Financing, said her committee's decision to include the ban on the sale of prescription information shows its desire to balance consumers' concerns with the needs of industry.

She said her committee removed the gift-ban language because pharmaceutical and biotech leaders told lawmakers it could chill industry-funded educational conferences that bring doctors together with researchers.

Instead, she said, lawmakers accepted the industry's recommendation that they adopt language used by Nevada.

"We were very concerned that the Senate language would deny [doctors and researchers] the kind of information they need," she said. "One could interpret [the Senate's version] to mean they would not be able to get anything."

After Walrath's committee revised the bill, it was passed last night by the House Ways and Means Committee.

The version expected to be debated today does include a section, also approved by the Senate, that would create a doctor-led outreach and education program to provide objective information to physicians and encourage evidence-based and cost-effective prescribing practices.

The program also would have to "inform prescribers about drug marketing that is intended to circumvent competition" from less expensive generic medications or other evidence-based treatment options.

The trade association that represents Massachusetts medical device makers said it was pleased that the House committee deleted the gift ban, but would lobby lawmakers today to fine-tune the wording to make sure the bill applies fully to its industry.

Much of the language now refers to the pharmaceutical industry.

"This allows education and training to continue and requires companies to develop their own codes of ethics, which many have already done," said Tom Sommer, president of MassMEDIC.

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