

Drug industry tightens rules on gift-giving

Trade group is opposing Mass. effort to ban practice

By Kay Lazar, Globe Staff | July 11, 2008

The trade association for drug companies announced yesterday a tightening of its voluntary code restricting industry gifts to doctors, even as the association has been forcefully lobbying against a tougher ban that is likely to be debated in the Massachusetts House next week.

The Pharmaceutical Research and Manufacturers of America said its guidelines prohibit drug company sales representatives from handing out pens, mugs, and other tokens emblazoned with company or product logos, and also disallow restaurant meals. But the rules still allow salespeople to cater free lunches in doctors' offices and hospitals, which they use to get access to doctors and make their sales pitches. Companies would still be able to pay doctors consulting and speaking fees, which industry critics say is the fastest-growing category of drug marketing. And the code relies on the industry to police itself.

The proposed state law, already unanimously approved in the Senate, would ban any gifts of value to doctors. That includes entertainment, meals, travel, and subscriptions. Drug and medical-device companies would have to report to the Department of Public Health any payments to doctors for speaking and consulting, and that information would be posted on the agency's website.

But heavy lobbying for and against the proposal from a wide spectrum of groups has led House leaders to take the unusual step of forming a five-member special committee to consider changes to the gift ban, which is one provision of a larger bill, sponsored by Senate President Therese Murray, intended to rein in healthcare costs.

PhRMA, the industry trade association, has submitted testimony opposing the state legislation, and lawmakers said they had been called by industry officials. A top executive for GlaxoSmithKline wrote Governor Deval Patrick and House Speaker Salvatore F. DiMasi, saying the company might reduce its investments in the state if the gift ban becomes law.

The Senate-passed gift ban has inflamed not only the pharmaceutical and biotech industries, but trade associations for restaurants and the companies that make the trinkets. Those organizations say their members could be out millions of dollars. Consumer groups have backed the ban, and doctors groups are divided on the issue. Lobbying on all sides has been intense. The New England Promotional Products Association even punctuated its appeal to lawmakers with a gift.

"We don't feel making a pen or coffee mug illegal is going to accomplish their goals," said Stephen Monahan, the products association's president.

The mugs handed out to Massachusetts lawmakers, he said, were not intended to influence their opinions, just to remind them that more than 3,500 of the association's members are Massachusetts voters who depend on this industry for a livelihood.

Representative Michael Rodrigues, a Westport Democrat who is one of the legislators on the committee studying the gift ban proposal, said pharmaceutical, biotech, and physicians groups have all urged him to change the wording because they fear a full ban would have unintended consequences. He said he has been told it could prohibit doctors from receiving scientific journals from pharmaceutical companies, or anatomically correct models, asthma inhalers, and other

devices physicians routinely use in their practice. He has also heard the ban could put a chill on pharmaceutical-funded educational conferences and gatherings that bring doctors together with researchers who are studying specific diseases.

On the other side, Rodrigues said he has been lobbied by consumer groups to stand firm on the ban because they say it will control soaring healthcare costs. They have cited studies that suggest the \$8.2 billion a year the industry spends on marketing to doctors influences their prescribing habits, leading them to use higher-priced drugs.

"These issues are the most difficult to reconcile because neither side is wrong," he said.

Senator Richard Moore, an Uxbridge Democrat who co-sponsored the bill banning gifts, said he expects the House to make some changes to the gift ban, but not so major to imperil its passage. He questions how serious the drug industry is about reining in gifts. He said he proposed another bill this session that mirrored the industry's voluntary gift ban but included penalties for violations. He said pharmaceutical lobbyists "came up and said we can regulate ourselves. But they aren't doing a very good job. . . . You do need some oversight."

The gift-ban bill would be enforced by the Department of Public Health and includes fines of up to \$5,000 per violation.

An industry spokeswoman said state regulations would be burdensome. Minnesota bans gifts valued at over \$50 to doctors, and a growing number of other states are considering restrictions on the pharmaceutical industry, but Massachusetts is the only one to propose an outright gift ban.

"It's important that the industry has the ability to change to address the needs of physicians," said Julie Corcoran, deputy vice president of government affairs for PhRMA. "I think the industry does a very good job in policing itself. This is an industry that is heavily regulated, not just by the FDA but the US Department of Justice."

Corcoran said the timing of the association's new ethics code was unrelated to the pending legislation in Massachusetts.

But several consumer groups said yesterday that they were skeptical about that.

The Prescription Project, a Boston-based national coalition of groups that monitors pharmaceutical marketing, released a statement noting that promotional spending by the pharmaceutical industry has increased since PhRMA adopted its first guidelines on gifts in 2002. It also said that a report released this week in Vermont, one of the few states that requires disclosure of marketing payments to doctors, showed an overall 33 percent increase in pharmaceutical payments in the last year.

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