

# HOUSE BILL NO. 4357

February 24, 2021, Introduced by Reps. Roth, Whiteford, Borton, Allor, Glenn, Farrington, Bellino, Yaroach, Wozniak, Martin, O'Malley and Calley and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding sections 17748g and 17748h.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       **Sec. 17748g. (1) A manufacturer or wholesale distributor,**  
2       **including any employee or agent of the manufacturer or wholesale**  
3       **distributor, shall not offer or give a gift to a prescriber when**  
4       **engaged in a sales, promotional, or other marketing activity for a**

1 prescription drug.

2 (2) The board may promulgate rules to implement this section.

3 (3) As used in this section, "gift" means a payment, an  
4 advance, a forbearance, or the rendering or deposit of money,  
5 services, or anything else of value, the value of which exceeds  
6 \$63.00 in any 1-month period. However, gift does not include any of  
7 the following:

8 (a) Providing a sample of a prescription drug to a prescriber  
9 for distribution to his or her patient.

10 (b) One or more items with a total combined retail value, in  
11 any 1-year period, of not more than \$63.00.

12 (c) A publication or educational material.

13 (d) A payment to the sponsor of a medical conference,  
14 professional meeting, or other educational program, if the payment  
15 is not made directly to a prescriber and is used solely for bona  
16 fide educational purposes.

17 (e) Reasonable compensation and expense reimbursement for the  
18 professional or consulting service of a prescriber, such as in  
19 connection with a genuine research project.

20 (f) A salary or other benefit paid to an employee.

21 (g) Anything of value provided by the manufacturer or  
22 wholesale distributor to its salaried employees.

23 (h) Reasonable compensation and expense reimbursement to a  
24 prescriber who serves as a speaker or on the faculty at a  
25 professional or educational conference or meeting, including a  
26 conference or meeting that is organized or sponsored by the  
27 manufacturer or wholesale distributor.

28 (i) Funding for a continuing medical or pharmacy education  
29 activity that is consistent with the standards of the Accreditation

1 Council for Continuing Medical Education or the Accreditation  
2 Council for Pharmacy Education including, but not limited to, a  
3 scholarship or educational funding for continuing education.

4 (j) A modest meal provided in connection with an informational  
5 presentation.

6 (k) An educational item designed primarily for the education  
7 of a patient or prescriber.

8 Sec. 17748h. A manufacturer and wholesale distributor shall  
9 provide a list to the board identifying each employee of the  
10 manufacturer or wholesale distributor who engages in the sale,  
11 promotion, or marketing of a prescription drug to a prescriber and  
12 shall ensure that each employee of the manufacturer or wholesale  
13 distributor complies with all of the following:

14 (a) That the employee provides to the prescriber, in writing,  
15 the wholesale acquisition cost of a prescription drug if the  
16 employee provides information concerning the prescription drug to  
17 the prescriber.

18 (b) That the employee does not engage in any deceptive or  
19 misleading marketing of a prescription drug, including knowingly  
20 concealing, suppressing, omitting, or misstating a material fact or  
21 knowingly making a misleading representation of a material fact.

22 (c) That the employee does not attend a patient examination  
23 without first obtaining the consent of the patient.

24 Enacting section 1. This amendatory act does not take effect  
25 unless Senate Bill No. \_\_\_\_ or House Bill No. 4358 (request no.  
26 00164'21) of the 101st Legislature is enacted into law.