

**HOUSE . . . . . No. 2251**

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**The Commonwealth of Massachusetts**

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PETITION OF:

Robert P. Spellane

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In the Year Two Thousand and Seven.  
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AN ACT PROVIDING FOR THE DISCLOSURE OF CERTAIN GIFTS MADE BY  
PHARMACEUTICAL COMPANIES.

*Be it enacted by the Senate and House of Representatives in General Court  
assembled, and by the authority of the same, as follows:*

Chapter 112 of the General Laws is hereby amended by inserting after Section  
24F the following Section:

Section 24G:

(1) Annually on or before January 1 of each year, every pharmaceutical manufacturing company doing business in Massachusetts shall disclose to the Massachusetts Board of Registration in Pharmacy the value, nature and purpose of any gift, fee, payment, subsidy or other economic benefit provided in connection with detailing, promotional or other marketing activities by the company, directly or through its pharmaceutical marketers, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator or any other person in Massachusetts authorized to prescribe, dispense, or purchase prescription drugs in this state.

Disclosure shall be made on a form and in a manner prescribed by the board. Initial disclosure shall be made on or before January 1, 2008 for the 12-month period ending June 30, 2007. The board shall provide to the office of the attorney general complete access to the information required to be disclosed under this subsection. The office of the attorney general shall report annually on the disclosures made under this section to the State Legislature and the governor on or before March 1.

(2) Each company subject to the provisions of this section shall also disclose to the board, on or before October 1, 2007 and annually thereafter, the name and address of the individual responsible for the company's compliance with the provisions of this section.

(3) The Massachusetts Board of Registration in Pharmacy and the office of the attorney general shall keep confidential all trade secret information, as defined by subdivision 317(b)(9) of Title 1.

The disclosure form prescribed by the board shall permit the company to identify any information that is a trade secret.

(4) The following shall be exempt from disclosure:

(A) Free samples of prescription drugs intended to be distributed to patients;

(B) The payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials. As used in this subdivision, "clinical trial" means an approved clinical trial conducted in connection with a research study designed to answer specific questions about vaccines, new therapies or new ways of using known treatments;

(C) Any gift, fee, payment, subsidy or other economic benefit the value of which is less than \$25.00; and

(D) Scholarship or other support for medical students, residents and fellows to attend a significant educational, scientific or policy-making conference of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(b) The attorney general may bring an action in Suffolk superior court for injunctive relief, costs, and attorneys fees, and to impose on a pharmaceutical manufacturing company that fails to disclose as required by subsection (a) of this section a civil penalty of no more than \$10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(c) As used in this section:

(1) "Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities, or other marketing of prescription drugs in this state to any physician,

hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor or the distributor's representative who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug.

(2) "Pharmaceutical manufacturing company" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, re-labeling, or distribution of prescription drugs. The term does not include a wholesale drug distributor or pharmacist licensed under Section 24 of Chapter 112 of the General Laws.