

1 **5-19.3-1. Short title.**

2 This chapter shall be known and may be cited as the "The Prescription Drug Sales
3 Representative Disclosure Act."

4 **5-19.3-2. Definitions.**

5 As used in this chapter, the following terms shall have the following meanings:

6 (1) "Department" means the department of business regulation.

7 (2) "Director" means the director of the department of business regulation, or designee.

8 (3) "Manufacturer" means a pharmaceutical, biological product, or medical device
9 manufacturer or any other person who is engaged in the production, preparation, propagation,
10 compounding, processing, marketing, packaging, repacking, distributing, or labeling of
11 prescribed products. The term does not include a wholesale distributor of biological products, a
12 retailer, or a pharmacist. The term also does not include a manufacturer whose only prescribed
13 products are classified as Class I by the U.S. Food and Drug Administration, are exempt from
14 pre-market notification under 21 U.S.C. 360 § 510 (k) of the Federal Food, Drug and Cosmetic
15 Act, and are sold over the counter without a prescription.

16 (4) "Medical facility" means any freestanding emergency care facility, health care
17 facility, physician or podiatry ambulatory-surgery center, or other similar entity licensed by the
18 state.

19 (5) "Pharmaceutical sales representative" means a person who markets prescription drugs
20 to providers of health care licensed, certified or registered in this state, pharmacies or employees
21 thereof, operators or employees of medical facilities or persons licensed or certified by the state.

22 (6) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

23 (7) "Provider of health care" means any person licensed in this state to administer or
24 prescribe a prescription drug.

25 **5-19.3-3. Pharmaceutical manufacturer and sales representative registration,**
26 **disclosure, and transparency report.**

27 (a) A manufacturer of a prescription drug shall provide to the department a list of each
28 pharmaceutical sales representative who markets prescription drugs on behalf of the manufacturer
29 to providers of health care in this state, pharmacies or employees thereof, or operators or
30 employees of medical facilities or persons licensed in this state.

31 (1) The manufacturer shall inform the department by any means acceptable to the
32 department of a change in the manufacturer's list within thirty (30) days of the change. Failure to
33 timely inform the department of a change may result in a penalty to be determined by the
34 department.

1 (2) The manufacturer shall refile or update the list annually.

2 (b) The department shall provide electronic access to the most recent list provided by
3 each manufacturer pursuant to subsection (a) of this section to each provider of health care
4 licensed, certified or registered in this state, operator of a pharmacy, and operator of a medical
5 facility, or person licensed or certified under the provisions of title 5 for the purposes of ensuring
6 compliance with the requirements of subsection (c) of this section. The department shall also
7 provide electronic access to the information to the department of health and public access via the
8 department's website. This subsection must not be construed to impose any duty on a provider of
9 health care, operator of a pharmacy, or operator of a medical facility or person licensed or
10 certified under the provisions of title 5 to ensure such compliance.

11 (c) A person who is not included on a current list submitted pursuant to subsection (a) of
12 this section shall not market prescription drugs on behalf of a manufacturer to any provider of
13 health care licensed, certified or registered in this state, pharmacy or employee thereof, operator
14 or employee of a medical facility or person licensed or certified under the provisions of title 5.

15 (d) On or before March 1 of each year, each person who was included on a list of
16 pharmaceutical sales representatives submitted pursuant to subsection (a) of this section at any
17 time during the immediately preceding calendar year shall submit to the department a report,
18 which must include, for the immediately preceding calendar year:

19 (1) A list of providers of health care, pharmacies and employees thereof, and operators
20 and employees of medical facilities and persons licensed or certified under the provisions of title
21 5 to whom the pharmaceutical sales representative provided:

22 (i) Any type of compensation, gift, or thing of value, with a value that exceeds ten dollars
23 (\$10.00); or

24 (ii) Total compensation, gift, or thing of value, with a value that exceeds one hundred
25 dollars (\$100) in aggregate; and

26 (2) The name and manufacturer of each prescription drug for which the pharmaceutical
27 sales representative provided a free sample to a provider of health care licensed, certified or
28 registered in this state, pharmacy or employee thereof, or operator or employee of a medical
29 facility or person licensed or certified under the provisions of title 5.

30 (e) The department shall analyze annually the information submitted pursuant to
31 subsection (d) of this section and compile a report on the activities of pharmaceutical sales
32 representatives in this state. On or before June 1 of each year, the department shall:

33 (1) Post the report on the website maintained by the department; and

34 (2) Submit the report to the governor, the director of the department of health, the

1 commissioner of the office of health insurance, the speaker of the house and the senate president.

2 **5-19.3-4. Fees and penalties.**

3 (a) A fee in the amount of fifty-five dollars (\$55.00) annually shall be charged by the
4 director from each manufacturer, per each pharmaceutical sales representative listed by the
5 manufacturer. All revenue collected pursuant to this chapter shall be deposited as restricted
6 receipts available to the department as described in § 42-14-9.

7 (b) The attorney general may bring an action in the civil division of the superior court,
8 Providence County for injunctive relief, costs, and attorneys' fees, and to impose, on a
9 manufacturer that fails to provide the information required by this chapter, a civil penalty of no
10 more than ten thousand dollars (\$10,000) per violation. Each unlawful failure to provide
11 information shall constitute a separate violation. In any action brought pursuant to this section,
12 the attorney general shall have the same authority to investigate and to obtain remedies as if the
13 action were brought under the deceptive trade practices act, chapter 13.1 of title 6.

14 SECTION 3. This act shall take effect on January 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PRESCRIPTION DRUG SALES --
REPRESENTATIVE DISCLOSURE ACT

1 This act would require prescription drug manufacturers to file a detailed, updated list of
2 each pharmaceutical sales representative and to pay an annual fee for each name listed with the
3 department of business regulation. Failure to comply would result in civil penalties.

4 This act would take effect on January 1, 2020.

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