

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

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

Introduced By: Senators Valverde, Miller, Lawson, Lauria, DiMario, DiPalma, Murray,
and Kallman

Date Introduced: March 07, 2023

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings and declaration of purpose. The general assembly hereby
2 finds and declares that:

3 (1) Containing health care costs requires containing prescription drug costs. The costs of
4 prescription drugs have been increasing dramatically. To contain prescription drug costs, it is
5 essential to understand the drivers of those costs, including increases in prescriptions and changes
6 in prescription patterns from low-cost to high-cost drugs.

7 (2) Drug companies employ pharmaceutical sales representatives to increase sales by
8 persuading prescribers to prescribe certain drugs. Sales representatives may provide education to
9 the prescriber, but often also include inducements in the form of gifts and drug samples.

10 (3) Drug sales representatives often have access to physician prescription tracking data.

11 (4) The state has an interest in requiring disclosures and regulating the practice of drug
12 sales representatives.

13 SECTION 2. Title 5 of the General Laws entitled "Businesses and Professions" is hereby
14 amended by adding thereto the following chapter:

15 CHAPTER 19.3

16 THE PRESCRIPTION DRUG SALES REPRESENTATIVE DISCLOSURE ACT

17 5-19.3-1. Short title.

18 This chapter shall be known and may be cited as "The Prescription Drug Sales

1 Representative Disclosure Act”.

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

3 As used in this chapter, the following words and terms shall have the following meanings:

4 (1) “Department” means the department of business regulation.

5 (2) “Director” means the director of the department of business regulation, or designee.

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

14 (4) “Medical facility” means any freestanding emergency care facility, healthcare facility,
15 physician or podiatry ambulatory-surgery center, or other similar entity licensed by the state.

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

19 (6) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

20 (7) “Provider of health care” means any person licensed in this state to administer or
21 prescribe a prescription drug.

22 **5-19.3-3. Pharmaceutical manufacturer and sales representative registration,**
23 **disclosure, and transparency report.**

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

28 (1) The manufacturer shall inform the department by any means acceptable to the
29 department of a change in the manufacturer’s list within sixty (60) days of the change. Failure to
30 timely inform the department of a change may result in a penalty to be determined by the
31 department.

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

33 (b) The department shall provide electronic access to the most recent list provided by each
34 manufacturer pursuant to subsection (a) of this section, to each provider of health care licensed,

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

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

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

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

19 (i) Any type of compensation, gift, or thing of value, with a value that exceeds one hundred
20 dollars (\$100); or

21 (ii) Total compensation, gift, or thing of value, with a value that exceeds two hundred fifty
22 dollars (\$250) in the aggregate; and

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

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

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

31 (2) Submit the report to the governor, the director of the department of health, the
32 commissioner of the office of health insurance, and to the speaker of the house and the senate
33 president.

34 **5-19.3-4. Fees and penalties.**

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

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

12 SECTION 3. This act shall take effect on January 1, 2024.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- THE 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 engaged by the manufacturer and to pay an annual fee for
3 each name listed with the department of business regulation. Failure to comply would result in civil
4 penalties.

5 This act would take effect on January 1, 2024.

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