

By: Senator(s) Williamson, Dawkins

To: Public Health and Welfare

SENATE BILL NO. 2546

1 AN ACT TO REQUIRE EVERY PHARMACEUTICAL MANUFACTURING COMPANY
2 TO DISCLOSE GIFTS, FEES, PAYMENTS, SUBSIDIES OR OTHER ECONOMIC
3 BENEFITS PROVIDED TO HEALTH CARE PROVIDERS IN CONNECTION WITH
4 PROMOTIONAL OR MARKETING ACTIVITIES; TO PROVIDE THAT DISCLOSURE
5 SHALL BE MADE WITH THE MISSISSIPPI STATE BOARD OF PHARMACY; AND
6 FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** (1) As used in this section:

9 (a) "Pharmaceutical marketer" means a person who, while
10 employed by or under contract to represent a pharmaceutical
11 manufacturing company, engages in pharmaceutical detailing,
12 promotional activities, or other marketing of prescription drugs
13 in this state to any physician, hospital, nursing home,
14 pharmacist, health benefit plan administrator or any other person
15 authorized to prescribe, dispense or purchase prescription drugs.
16 The term does not include a wholesale drug distributor or the
17 distributor's representative who promotes or otherwise markets the
18 services of the wholesale drug distributor in connection with a
19 prescription drug.

20 (b) "Pharmaceutical manufacturing company" means any
21 entity which is engaged in the production, preparation,
22 propagation, compounding, conversion or processing of prescription
23 drugs, either directly or indirectly by extraction from substances
24 of natural origin, or independently by means of chemical
25 synthesis, or by a combination of extraction and chemical
26 synthesis, or any entity engaged in the packaging, repackaging,
27 labeling, relabeling or distribution of prescription drugs. The
28 term does not include a wholesale drug distributor or licensed
29 pharmacist.

30 (2) Annually on or before January 1 of each year, every
31 pharmaceutical manufacturing company shall disclose to the
32 Mississippi State Board of Pharmacy the value, nature and purpose
33 of any gift, fee, payment, subsidy or other economic benefit
34 provided in connection with detailing, promotional or other
35 marketing activities by the company, directly or through its
36 pharmaceutical marketers, to any physician, hospital, nursing
37 home, pharmacist, health benefit plan administrator or any other
38 person in Mississippi authorized to prescribe, dispense or
39 purchase prescription drugs in this state. Disclosure shall be
40 made on a form and in a manner prescribed by the board. Initial
41 disclosure shall be made on or before January 1, 2005, for the
42 twelve-month period ending June 30, 2004, and annually thereafter.
43 The board shall provide to the Office of the Attorney General
44 complete access to the information required to be disclosed under
45 this subsection. The Office of the Attorney General shall report
46 annually on the disclosures made under this section to the
47 Legislature and the Governor on or before March 1, annually.

48 (3) Each company subject to the provisions of this section
49 shall also disclose to the board, on or before October 1, 2004,
50 and annually thereafter, the name and address of the individual
51 responsible for the company's compliance with the provisions of
52 this section.

53 (4) The Mississippi State Board of Pharmacy and the Office
54 of the Attorney General shall keep confidential all trade secret
55 information, and the disclosure form prescribed by the board shall
56 permit the company to identify any information that is a trade
57 secret.

58 (5) The following shall be exempt from disclosure:

59 (a) Free samples of prescription drugs intended to be
60 distributed to patients;

61 (b) The payment of reasonable compensation and
62 reimbursement of expenses in connection with bona fide clinical

63 trials. As used in this subsection, "clinical trial" means an
64 approved clinical trial conducted in connection with a research
65 study designed to answer specific questions about vaccines, new
66 therapies or new ways of using known treatments;

67 (c) Any gift, fee, payment, subsidy or other economic
68 benefit, the value of which is less than Twenty-five Dollars
69 (\$25.00); and

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

76 (6) The Attorney General, on relation of the Mississippi
77 State Board of Pharmacy, may bring an action in Mississippi
78 Chancery Court for injunctive relief, costs and attorneys fees,
79 and to impose on a pharmaceutical manufacturing company that fails
80 to disclose as required by subsection (1) of this section a civil
81 penalty of no more than Ten Thousand Dollars (\$10,000.00) per
82 violation. Each unlawful failure to disclose shall constitute a
83 separate violation.

84 **SECTION 2.** This act shall take effect and be in force from
85 and after July 1, 2004.