



PROFESSION

Ban on pharma meals for physicians overturned

Massachusetts, the first state to ban all gifts from industry, says "modest" food and drinks are OK.

By **KEVIN B. O'REILLY**, amednews staff. *Posted July 23, 2012.*

Massachusetts has repealed a 2008 state ban on industry-provided meals for physicians and other health professionals.

The change allows medical industry companies to pay for "modest meals and refreshments" for doctors and other health professionals in connection with educational presentations that are not certified by the Accreditation Council for Continuing Medical Education. The presentations must happen "in a venue and manner conducive to informational communication," the new law says.

Restaurateurs, pharmaceutical companies and device-makers had lobbied for the repeal, which was included in the state's \$32.5 billion 2013 budget enacted in July.

"This narrow change will afford health care providers some flexibility to be educated on new clinically relevant products and allow them to stay informed on advancements in pharmaceuticals and medical devices that benefit patients and lower our health care costs," Massachusetts Gov. Deval Patrick wrote in a letter announcing his decision to undo the meal ban.

Drug- and device-makers that provide meals will have to file quarterly reports with the state health department saying where the non-CME presentation took place, what medicines or devices were discussed at the meeting and how much was spent per participant. Also, it will be up to the health department to define through a rule-making process what counts as "modest" food and drinks.

Other gifts from industry are still banned, and payments to physicians of more than \$10 will have to be reported under the sunshine provisions of the Affordable Care Act. Industry payments to physicians will be collected starting in 2013 for inclusion in a nationwide public database.

Critics of the 2008 state gift ban hailed the change.

"The Massachusetts Legislature and the governor finally figured out — despite the incessant pleading of the anti-industry activists who instigated the statute — that telling doctors where they can have meals, and the redundant reporting of who pays doctors what, are detrimental to medical education and innovation and do not reduce the cost of health care," said Thomas P. Stossel, MD, director of the Translational Medicine Division at Brigham and Women's Hospital in Boston.

"They could, and should have, junked the whole law," added Dr. Stossel, co-founder of the Assn. of Clinical Researchers and Educators, which is critical of restrictions on physician-industry collaboration. "In the meantime, other states and academic health centers that have contemplated or enacted such regulations should take notice."

Vermont also bans industry from providing meals to physicians. Minnesota bars any gifts to doctors worth more than \$50, including food and drinks.

Device-makers applauded another change in the Massachusetts law that allows them to pay health professionals' expenses for technical training with a new device. Previously, they were allowed to do that only when a purchase contract was in place.

"We believe the law will facilitate physician training on rapidly advancing medical technologies, promote patient access to advanced technologies, and align the federal and state approaches to ensure consistent reporting and clear and meaningful disclosure to the public," said Christopher White, general counsel and senior executive vice president of the Advanced Medical Technology Assn., which represents device manufacturers.

In May, the Massachusetts Medical Society adopted policy supporting a change in the state's gift ban so long as the modification conformed to guidelines from the ACCME and the American Medical Association. The AMA Code of Medical Ethics says it is OK for physicians to accept gifts worth \$100 or less from industry so long as they benefit patients.

Medical students wanted ban upheld

Not everyone in medicine is pleased with the change. A coalition of nearly 100 medical students, residents and academic physicians wrote legislative leaders and the governor in a bid to retain the state's gift ban in its entirety.

"It's really about the trust that's at the heart of doctor-patient relationships," said David Tian, a fourth-year medical student at Harvard Medical School in Boston. He chairs the American Medical Student Assn.'s PharmFree campaign that grades medical schools' conflict-of-interest policies. "We know that patients are concerned that doctors are too influenced by industry."

A *Consumer Reports* National Research Center poll of 1,154 Americans in May 2010 found that 69% said drugmakers hold too much sway over physicians' prescribing.

“This change creates ambiguity about what’s allowed and what’s not allowed,” Tian said. “We think we owe patients the clarity and the peace of mind of knowing that doctors in Massachusetts aren’t receiving gifts or meals from industry — period.”

ADDITIONAL INFORMATION:**WEBLINK**

2013 Massachusetts budget conference report, June 27 (sections 108-114, starting on page 237, details rules on industry-provided meals) (www.malegislature.gov/Content/Documents/Budget/FY2013/ConferenceReport-H4200.pdf)

2011 Minnesota statute barring industry gifts to physicians worth more than \$50 (www.revisor.mn.gov/statutes/?id=151.461)

2009 Vermont statute banning gifts from industry (www.leg.state.vt.us/statutes/fullsection.cfm?Title=18&Chapter=091&Section=04631a)

“Opinion 8.061 — Gifts to Physicians from Industry,” AMA Code of Medical Ethics, June 1998 (www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion8061.page?)

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