San Diego Regional Chamber

Policy Brief

June 2017

SB 790 (McGuire): Health Care Providers: Gifts & Benefits

POSITION: The Healthcare Committee will consider SB 790 on June 14, 2017.

STATUS: SB 790 was introduced by Senator Mark McGuire on February 17, 2017. It has passed out of the Senate and Assembly Committees and awaits hearing on the Assembly floor.

AT-A-GLANCE

SB 790 prohibits a drug manufacturer from offering or giving a gift to any health care provider, and further prohibits a manufacturer (or any entity on behalf of that manufacturer) from providing a fee or economic benefit to a provider following that providers participation in research.

SUMMARY

SB 790 prohibits a drug manufacturer from offering or giving a gift to any health care provider, and further prohibits a manufacturer (or any entity on behalf of that manufacturer) from providing a fee or economic benefit to a provider following that providers participation in research.

Specifically, it defines a "gift" to a provider as anything of value provided for free, including food, entertainment, travel, subscription, advance or service. Allowable expenditures as covered by SB 790 are limited to honoraria (as covered by a contract), bona fide clinical trial participation, and other employment-related exchanges.

ANALYSIS

According to the author, SB 790 was introduced following alleged correlation between pharmaceutical companies' payments to medical professionals and the price of prescription drugs. The author has cited statistics highlighting that California physicians and other medical professionals accept the most gifts taken, which in turn contributes to the high cost of prescription drugs.

Under current law, the Physician Payments Sunshine Act, enacted through the ACA, mandates that all manufacturers of specific drugs, medical devices, supplies and biologicals disclose to CMS their payments or gift made to any physician or teaching hospital. SB 790 would not expand the Sunshine Act as it would prohibit those gifts that are currently catalogued and made available to the public. Further, existing law requires drug companies to adopt a Comprehensive Compliance Program (CCP) that limits gifts and other incentives that are provided. The CCP requires an explicit annual limit on gifts promotional materials and items, and the CCP must be readily available on the company's website.

Although it is not the majority, some institutions and providers have chosen to self-impose gift bans, including the UC institutions and Kaiser Permanente. Both institutions have documented strict rules limiting or barring physicians from accepting gifts.

SB 790 has drawn concern that it is redundant in its attempt to better monitor gift giving, but further complicates the relationship between pharmaceutical companies and physicians unnecessarily. The relationship between the two, while currently the point of contention as drug costs become increasingly present in policy discussions, is often necessary in the context of research, consulting and collaboration in the development of new drugs and devices. Anecdotal evidence of such laws in other states have pointed to an adverse and uncomfortable situation in events such as conventions, where doctors representing certain states are not able to participate in functions should they trip over regulation such as SB 790.

SUPPORT

California Alliance for Retired Americans
California Labor Federation
CALPIRG
Consumers Union
Courage Campaign
Families USA
Health Access California
Medical Board of California
National Center for Youth Law
School Employers Association of California
SEIU
Small School Districts Association

OPPOSITION

Biotechnology Innovation Organization
California Life Sciences Association
California Medical Association
Pharmaceutical Research & Manufacturers of America