

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 911

H.P. 639

House of Representatives, March 7, 2017

An Act To Prohibit Certain Gifts to Health Care Practitioners

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HAMANN of South Portland.
Cosponsored by Senator CHIPMAN of Cumberland, Senator GRATWICK of Penobscot and Representatives: GATTINE of Westbrook, HEAD of Bethel, HICKMAN of Winthrop, MALABY of Hancock, PARKER of South Berwick, PERRY of Calais, SANDERSON of Chelsea, Senator: SAVIELLO of Franklin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 32 MRSA §13759** is enacted to read:

3 **§13759. Gifts to practitioners prohibited**

4 **1. Gift defined.** For the purposes of this section, "gift" means anything of value,
5 including forgiveness of an obligation or debt, given to a practitioner without that
6 practitioner providing equal or greater consideration to the giver. "Gift" does not include:

7 A. Professional samples of a drug provided to a practitioner for free distribution to
8 patients;

9 B. Items with a total combined retail value, in any calendar year, of not more than
10 \$50;

11 C. A payment to the sponsor of a medical conference, professional meeting or other
12 educational program, as long as that payment is not made directly to a practitioner
13 and is used solely for bona fide educational purposes;

14 D. Reasonable honoraria and payment of the reasonable expenses of a practitioner
15 who serves on the faculty at a professional or educational conference or meeting;

16 E. Compensation for the substantial professional or consulting services of a
17 practitioner in connection with a genuine research project;

18 F. Publications or educational materials; or

19 G. Salaries or other benefits paid to employees.

20 **2. Gifts to practitioners prohibited.** A manufacturer or wholesaler, or an agent of a
21 manufacturer or wholesaler, may not offer or give a gift to a practitioner. For purposes of
22 this section, a medical device manufacturer that distributes drugs as an incidental part of
23 its device business is not considered a manufacturer or wholesaler or an agent of a
24 manufacturer or wholesaler.

25 **SUMMARY**

26 This bill amends the Maine Pharmacy Act to prohibit a person engaged in the
27 manufacture of prescription drugs or a person who buys prescription drugs for resale and
28 distribution to persons other than consumers from giving a gift to an individual who is
29 licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe
30 and administer drugs in the course of that individual's professional practice. "Gift" does
31 not include samples of prescription drugs to be given to patients for free, items with a
32 total value of less than \$50 over a calendar year, payments to sponsors of educational
33 programs, honoraria and payments of expenses incurred at an educational conference or
34 meeting, compensation for research, publications or educational materials and salaries or
35 other benefits paid to employees.