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House Health Committee

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House Bill 1134 – *Pharmaceutical Drugs and Devices – Gifts to Health Care Professionals – Prohibition*

**POSITION: OPPOSE**

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** House Bill 1134.

This legislation would prohibit a health care professional from accepting a “gift” valued at more than \$50 from any drug or device manufacturer, and subjects anyone who gives or offers such a gift to a fine of up to \$5,000 and imprisonment of 6 months or more. Gifts include any payment, food, and generally anything of value.

MedChi opposes the criminalization of these activities for several reasons. First, much like campaign contributions to political candidates, such monetary exchanges should be the subject of disclosure rather than criminal punishment. The federal government has already established the Open Payments Database (<https://openpayments.cms.gov>) that requires disclosure of any amount greater than \$13.82 given to a physician by a drug manufacturer. This amount is adjusted annually. Patients and consumers who want to know what manufacturers, if any, their physician has taken “gifts” from can access this database by simply entering the physician’s name and use that information accordingly.

Second, with the reporting threshold amount so low, even a lunch purchased by a drug manufacturer during which the uses of a new drug are explained, for example, is reportable. These educational efforts are important, but they do require some incentive to get health care providers to participate, and “lunch and learn” is a good example of that. This bill would prohibit even these educational efforts.

Finally, in those situations where it is believed that a physician is prescribing a drug or device improperly or even excessively, the Board of Physicians already has authority to take disciplinary action. The Board has at least four grounds that would be the basis for disciplinary action, including license suspension or even revocation. These include: 1) unprofessional conduct, 2) promoting the sale of drugs, devices, appliances or goods to a patient so as to exploit them for financial gain, 3) establishing a pattern of excessive or medically unnecessary procedures or treatment, and 4) selling, prescribing, giving away or administering drugs for illegal or illegitimate purposes. *See* Health Occ., §14-404(a). If a physician is truly “on the take” from a drug manufacturer, their license can be revoked, which serves both to protect the public and to deliver the ultimate sanction to the physician—the loss of their license to practice.

Given that these safeguards and protections are already in place, MedChi does not believe House Bill 1134 is necessary.

**For more information call:**

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