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LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 639, L.D. 911, Bill, “An Act To Prohibit Certain Gifts to Health Care Practitioners”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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

§13759. Gifts to practitioners prohibited

1. Prohibition. Except as provided in subsection 2, a manufacturer or wholesaler licensed under section 13758 or an agent of a manufacturer or wholesaler licensed under section 13758 may not offer or give the following to a practitioner:

A. A cash gift in any amount; or

B. A gift for which reciprocity is expected or implied.

2. Exceptions. A manufacturer or wholesaler licensed under section 13758 does not violate subsection 1 by engaging in the following activities:

A. Giving noncash items of minimal value that will directly benefit the practitioner's patients, including:

(1) Prescription drug samples for distribution to patients;

(2) Educational materials; and

(3) Modest meals and refreshments, as defined by the board by rule pursuant to section 13720, provided to a practitioner in connection with a meeting or presentation about the benefits, risks and appropriate uses of prescription drugs or medical devices, disease states or other scientific information, as long as the meeting or presentation occurs in a venue and manner conducive to informational communication;

B. Giving funding to academic institutions and residency and fellowship programs to support the participation of medical, nursing, physician assistant, veterinarian and

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1 pharmacy students, residents and fellows in professional meetings, including
2 educational meetings, as long as the program identifies such funding recipients based
3 on independent institutional criteria and the funds are distributed to recipients without
4 specific attribution to sponsors; or

5 C. Giving reasonable honoraria to a practitioner and making payment of the
6 reasonable expenses, as defined by the board by rule pursuant to section 13720, of a
7 practitioner at a professional or educational conference or meeting.

8 Rules adopted pursuant to this subsection are major substantive rules as defined in Title
9 5, chapter 375, subchapter 2-A.'

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SUMMARY

11 This amendment, which is the unanimous report of the committee, strikes and
12 replaces the bill. The amendment generally prohibits a licensed manufacturer or
13 wholesaler of prescription drugs, or an agent of a licensed manufacturer or wholesaler of
14 prescription drugs, from giving or offering to give gifts to an individual who is licensed,
15 registered or otherwise authorized to prescribe and administer drugs in the course of
16 professional practice. The amendment contains 3 exceptions to this prohibition, allowing
17 a licensed manufacturer or wholesaler of prescription drugs to give:

- 18 1. Noncash gifts of minimal value that will directly benefit the prescriber's patients;
- 19 2. Funding to support the participation of health care students, residents and fellows
20 in professional and educational meetings; and
- 21 3. Reasonable honoraria and payment for reasonable expenses of a practitioner at a
22 professional or educational conference or meeting.