

January 2018

### **NEW Limitations on and Obligations Associated with Acceptance of Compensation from Pharmaceutical Manufacturers by Prescribers Went Into Effect on January 16, 2018**

#### **Important Points:**

- A recently adopted regulation in New Jersey is intended to regulate and limit anything of value prescribers may receive from pharmaceutical manufacturers or their agents. The intent is to ensure that such conduct does not interfere with the prescriber's independent judgment and patient care.
- A prescriber is defined as a physician, podiatrist, physician assistant, advanced practice nurse, dentist and optometrist who provides patient care.
- Exception: Contractual arrangements between pharmaceutical manufacturers and prescribers entered into prior to January 15, 2018, are exempt from the new regulation.
- The new regulation requires that all bona fide services, regardless of whether they are subject to the \$10,000 cap, be reduced to a written contract. The written contract must meet all the requirements set forth in the regulation.
- The new regulation placed a cap of \$10,000 in the aggregate that a prescriber can accept from ALL pharmaceutical manufacturers or their agents in one calendar year for various bona fide services. The bona fide services included in the \$10,000 annual cap are services rendered by a prescriber for promotional activities, participation on advisory boards and consulting arrangements.
- Payment received for speaking at an educational event does NOT count toward the \$10,000, but the fee received must be for fair market value and must be in a written agreement. Payments received for research activities, royalties and licensing fees are also not subject to the cap.
- The new regulation prohibits, with minor exceptions, the prescriber from accepting any direct or indirect financial benefit or benefit-in-kind from a pharmaceutical manufacturer or their agents. These include, gifts, payments, stock, grants, any entertainment or recreational items, pens, note pads, clipboards, mugs, and other items with the manufacturer's logo.
- Prescribers are prohibited from accepting meals costing more than \$15.
- The new regulation permits gifts that are designed primary for educational purposes, such as anatomical models for use in examination rooms or materials directly related to patient care or prescriber education. The regulations also allow for the manufacturers to subsidize registration fees for educational events, as long as, it is made available to all event participants.
- Additionally, a prescriber that is a speaker at an educational event or a promotional event, must disclose to the audience at the beginning of the presentation that he or she has accepted payment for their bona fide services from the sponsoring manufacturer within the last five years.
- The enforcement of this regulation will be by the New Jersey Attorney General and the professional licensing agencies, such as the New Jersey Board of Medical Examiners, the New Jersey Board of Dentistry, New Jersey Board of Optometrists and the New Jersey Board of Nursing.

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We invite any questions concerning this new regulation. Please contact [David Adelson](mailto:DAAdelson@nmmlaw.com) at [DLAdelson@nmmlaw.com](mailto:DAAdelson@nmmlaw.com) or [Lana Ros](mailto:SLRos@nmmlaw.com) at [SLRos@nmmlaw.com](mailto:SLRos@nmmlaw.com).

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