



**Massachusetts  
Prescription Reform  
Coalition**

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[www.hcfama.org/MPRC](http://www.hcfama.org/MPRC)

AARP Massachusetts

AIDS Action Committee

Blue Cross Blue Shield of  
Massachusetts

Commonwealth Care  
Alliance

Commonwealth of  
Massachusetts Group  
Insurance Commission

Community Partners

Health Care For All

Leukemia & Lymphoma  
Society of Massachusetts

Massachusetts Council on  
Aging

Massachusetts Senior  
Action Council

MASSPIRG

National Physicians Alliance

Neighborhood Health Plan

The Prescription Project

United Auto Workers  
Massachusetts CAP  
Council

July 23, 2008

Senate President Therese Murray  
Massachusetts State House  
Room 332  
Boston, MA 02133

Speaker Salvatore DiMasi  
Massachusetts State House  
Room 356  
Boston, MA 02133

Dear Senate President Murray and Speaker DiMasi:

On behalf of the Massachusetts Prescription Reform Coalition (MPRC), thank you for continuing to prioritize affordable health care. The MPRC is a broad-based coalition of non-profit national and local organizations, community organizations, healthcare advocates, private insurers, public payors, and healthcare providers committed to promoting evidence-based, unbiased prescribing and access to appropriate and affordable prescription drugs.

We thank you for recognizing that prescription drug cost control is central to overall health care cost control, and for prioritizing comprehensive prescription reform in S. 2660 and H. 4974, *Acts To Promote Cost Containment, Transparency, and Efficiency in the Delivery of Quality Health Care*. We are pleased that both bills include an evidence-based outreach and education program for prescribers, which is a MPRC priority. Research shows that these programs control costs and improve patient safety by providing prescribers with balanced safety and efficacy information about all prescription drugs. We respectfully ask you to consider the MPRC's other prescription reform priorities as you continue to work together to refine the final legislative bill:

- **Ban on Prescription "Data-Mining."** We ask that you include the ban on data-mining in your final legislative bill. Banning data-mining ensures that pharmaceutical companies cannot use consumers' private health information to magnify the influence of their biased and misleading promotional information on prescribing decisions.
- **Pharmaceutical Gift Ban.** We ask that you include a ban on industry gifts to health care providers in the final legislative bill. A legislative gift ban is the most effective way to prevent the inappropriate influence of pharmaceutical gifts, which leads to increased prescribing of the newest and highest-cost drugs.

Attached please find a more detailed analysis of the proposed provisions on data-mining and pharmaceutical gifts to providers.

Together with the evidence-based outreach and education program, these provisions will provide prescribers with the unbiased data they need to make safe and cost-efficient prescribing decisions, while ensuring that prescribers are not unduly influenced by conflicts of interest and inappropriate marketing tactics.

Thank you for your leadership on these issues. Please do not hesitate to contact me with any questions and to let us know how the MPRC can support you as you work to finalize the legislation.

Sincerely,

A handwritten signature in black ink that reads "Lisa Kaplan Howe". The signature is written in a cursive style and is positioned to the left of a vertical red line.

Lisa Kaplan Howe  
Coordinator  
Massachusetts Prescription Reform Coalition

cc: Chairman DeLeo  
Chairman Moore  
Chairman Panagiotakos  
Chairwoman Walrath  
Christie Hager  
Caroline Fisher  
Sarah Nolan  
David Seltz



A legislative ban on industry gifts to health care providers and a legislative ban on data-mining go hand-in-hand with each other and with the evidence-based outreach and education program for providers included in S. 2660 and H. 4974. The outreach and education program will ensure that prescribers have the unbiased data they need to make safe and cost-efficient prescribing decisions, while the bans on gifts and data-mining will ensure that prescribers are not unduly influenced by promotional material, conflicts of interest and inappropriate marketing tactics.

### **Pharmaceutical Gift Ban**

The MPRC strongly supports a legislative ban on pharmaceutical, biotechnology and medical device gifts to health care providers. A wealth of research shows that gifts of all sizes inherently influence prescribing decisions, leading to increased prescribing of the newest and highest-cost drugs. The result is increased costs for consumers, employers and the Commonwealth, and compromised patient care. These drugs are often more expensive than equally safe and effective lower cost alternatives and are the drugs about which we have the least safety and efficacy information.

Years of experience in Massachusetts and other states have proved that a legislative gift ban is the most effective way to prevent the inappropriate influence of pharmaceutical gifts. Industry codes of conduct do not, and cannot, adequately address the threat of pharmaceutical gifts. Remarkably, following the release of Pharmaceutical Research and Manufacturers of America's ("PhRMA") Code on Interactions with Healthcare Professionals in 2002, pharmaceutical industry gifts and payments to physicians did not decline, but instead increased. According to data that the pharmaceutical industry is required to disclose in Vermont, gifts and payments to physicians in that state have increased significantly since 2002, by 33% in 2007 alone.

A comprehensive study of internal codes of conduct undertaken by CALPIRG following implementation of a California law requiring companies adopt and disclose codes of conduct found that internal codes are not adequately stringent and vary significantly in many important respects. Their research showed that the level of detail in the policies varies dramatically, as does the definition of a "gift." Items excluded from the definition of gifts in one or more internal codes include: reimbursing attendees for travel and lodging for promotional functions, gifts costing under a threshold amount, funding for educational activities, and meals. The CALPIRG researchers also found that total limits on gifts within the internal codes of conduct vary by at least 350% and some companies explicitly reserve the right to violate their self-imposed limits.

The internal codes recommended by industry trade associations are likewise inadequate. We were happy to see that PhRMA recognizes the inappropriate influence of gifts, leading them to

revise their recommended code of conduct. However, even the revised code is not sufficiently stringent. Both the PhRMA Code and the Advanced Medical Technology Association (“AdvaMed”) permit the provision of meals, which, research shows, influence prescribing decisions by promoting the natural desire to reciprocate. Meals also been shown to make messages more likely to be favorably received. The subconscious influence of meals perseveres despite medical education. Both codes also permit the provision of “educational” gifts, a broad exemption that can include far more than printed informational materials. The AdvaMed code of conduct permits paying for travel and branded products. Research shows such gifts, even small gifts, influence prescribing decisions, and branded materials drive up name recognition.

The industry has been left to self-regulate for years resulting in inappropriate gifts and payments, undue influence, higher costs and compromised quality of care. Only through legislation will there be an adequately strong and uniformly enforced statewide standard that applies to all pharmaceutical, biotechnology and medical device companies. In addition to protecting consumers and the Commonwealth, a uniform standard will level the playing field among all companies, large and small, ensuring that those who choose not to give gifts, either because they cannot afford to or because they have chosen to voluntarily enact more stringent ethical standards, are able to compete with large companies whose marketing strategies are driven by gifts to providers.

In addition, though companies should be allowed to continue providing compensation for services, such as research and consulting, it is critical that companies be required to disclose these payments so the Commonwealth and consumers can ensure that the payments being made are reasonable, legitimate and not unduly influential.

### **Ban on Prescription Data-Mining**

The MPRC strongly supports banning “prescription data-mining.” The use of prescription data for marketing unnecessarily raises the cost of prescription drugs, and threatens patient safety, privacy and doctor-patient relationships. Data-mined information allows them to determine which prescribers are the most susceptible to marketing, so they know with which prescribers they will get the “best bang for their marketing buck.” It also allows them to tailor their messages to particular prescribers for maximum impact. Importantly, the sale of this information happens without the consent of, and often without the knowledge of, the patient and the prescriber. The ban on data-mining will ensure that pharmaceutical companies cannot use our private health information to magnify the influence of their biased and misleading promotional information on prescribing decisions and will protect against the inflated prescription drug prices and compromised quality of care that result from this practice.