

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Kruse, Monnes Anderson, Telfer, Verger, Morrisette
Nays:	0
Exc.:	0
Prepared By:	Jennifer Kellar, Administrator
Meeting Dates:	3/16, 4/15, 4/22, 4/27

WHAT THE MEASURE DOES: Requires drug manufacturers and wholesale drug outlets to adopt a marketing code of conduct, provide and conduct training and perform an annual self-audit and report the outcome to the Board of Pharmacy. Directs Board to report findings by March 31 of each regularly scheduled legislative session.

ISSUES DISCUSSED:

- Existing federal guidelines and their applicability to proposed measure
- Concern with definition of “drug” and it encompassing over-the-counter pharmaceutical products
- Clarification of term “audit” in measure
- Discussion regarding scope of measure
- Severity of penalties for non-compliance
- Protection of consumers currently existing under Consumer Healthcare Products Association advertising code
- Requirements of measure to adopt code of conduct for all marketing practices, including customary marketing to retail outlets
- Other state’s/organization’s code of conduct requirements and guidelines
- Potential fiscal impact of measure

EFFECT OF COMMITTEE AMENDMENT: Modifies provision to provide for “self-audit” by the manufacturer or wholesale drug outlet.

BACKGROUND: Federal laws currently exist pertaining to the prevention of fraud and abuse related to any remuneration paid to prescribers. Federal law requires that in any arrangement in which a prescriber is paid by a manufacturer, the services provided must be paid for at fair market value and be in remuneration for bona fide services rendered. This law states that each manufacturer must identify any “remunerative relationship” between itself or its representatives and individuals or entities in a position to directly or indirectly generate federal health care business. Additionally, the law states that each manufacturer must analyze whether even one purpose of any remuneration to anyone who could directly or indirectly generate health care business may be unlawful.