

VERMONT MEDICAL SOCIETY

S. 45, An Act Relating to Providing Meals to Health Care Providers at Conferences –

Reducing Barriers to Attending Continuing Medical Education Programs

What is the problem?

State policies should not discourage medical professionals from attending high-quality, accredited continuing medical education. To take advantage of the growing array of diagnostic and treatment options, clinicians must continually update their medical knowledge and practice skills. Currently, inconsistencies between Vermont Prescribed Products Gift Ban law and the national Open Payments Law have created disincentives for clinicians to attend national and regional educational events outside of Vermont. Vermont clinicians have been singled out and refused food and beverage, prevented from attending portions of educational events at which food and beverage was offered and even asked to repay the cost of meals provided after a conference sponsor learns that the attendee is from Vermont.

Why does this problem exist?

There are inconsistent state and federal laws that address gifts and other payments made from drug and device manufacturers to clinicians. The Sunshine Act/Open Payments Program is a national disclosure requirement overseen by the Centers for Medicaid and Medicare Services (CMS) that began in 2013. Under Open Payments, manufacturers of a drug, device, biological, or medical supplies are allowed to provide and do not have to report to CMS the costs of “buffet meals, snacks, soft drinks or coffee generally available to all participants of a large-scale conference or similar large-scale event.”¹

A separate Vermont law bans most gifts and requires reporting of most expenditures from manufacturers of pharmaceutical products, biological products, and medical devices made to Vermont health care clinicians, even if the clinician is attending a conference out-of-state.² Vermont only allows manufacturers to provide, and exempts from reporting, “coffee or other snacks or refreshments at a booth at a conference or seminar.”³ In sum, federal law allows manufacturers to provide meals and beverages at any location at a continuing education conference, while state law only allows snacks and beverages (not meals) and they must be provided from a booth. To avoid violating Vermont law, out-of-state conference organizers must therefore prevent Vermont clinicians from accessing any manufacturer-sponsored meals as well as beverages or snacks offered outside a booth.

What is the solution?

S.45 provides a narrow solution to align one aspect of the Open Payments program and Vermont Prescribed Products Gift Ban Law. The bill would amend the section of state law outlining what food and beverage can be provided by a manufacturer at a conference to mirror the language in federal law: allowing – and not requiring reporting of – buffet meals, snacks, soft drinks or coffee generally available to all participants at a conference or seminar.

¹ [42 CFR § 403.904 \(h\)\(2\)](#) ((g)(2) as modified by [79 FR 67758](#))

² 18 VSA § [4631a-4632](#); See also [2016 Guidance: Guide to Vermont's Prescribed Product Gift Ban and Disclosure Law for 2016](#)

³ 18 VSA § 4631a(b)(2)(K); 4632(a)(1)(A)(v)