

State of Vermont
Office of the Attorney General
Guidance

Vermont's Gift Ban and Disclosure Laws:

What Vermont Health Care Providers Should Know About Conference Meals

Christopher J. Curtis, Chief, Public Protection Division

Merideth C. Chaudoir, Assistant Attorney General

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Key points Vermont healthcare providers (HCPs) should know about Vermont's Gift Ban Laws and meals at conferences:

- 1. A Vermont HCP cannot be banned from a lecture because a non-complying meal or food is being served.**
 - 2. Under certain circumstances, Vermont HCPs may be asked to pay for their meal.**
 - 3. It is the responsibility of manufacturers to report gift ban violations, not Vermont HCPs.**
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Vermont health care providers (HCPs) occasionally request information from the Office of the Vermont Attorney General (AGO) seeking clarification of Vermont's Gift Ban and Disclosure Laws. In particular, the AGO receives questions about the rights of Vermont HCPs when it comes to meals or food at conferences, and whether they constitute impermissible gifts when provided at conferences.

The answer is straightforward: meals are always permissible at certified Continuing Medical Education (CME) events. Furthermore, when those programs are free from a sponsoring manufacturer's direct influence on content or direct payments, it is permissible for that meal to be provided to a Vermont HCP free of cost. Even when an event offering a meal does not meet these requirements, the meal is permissible ***so long as*** the health care professional reimburses the manufacturer the cost of the food.

Vermont's gift ban and disclosure laws, originally passed in 2009, balance (1) regulating industry conduct to avoid influence with (2) allowing Vermont HCPs to attend sponsored events. They were passed to ensure that HCPs would be free of industry influence when making determinations or recommendations for products

that would have a direct effect on Vermont consumers, their health, and prescription drug costs. Studies show that gifts do influence behavior.¹ Even what might be considered a *de minimis* gift, like a meal, may have an impact on decision-making. *Id.* To address this influence, Vermont elected to enact consumer-friendly protections that lightly regulate industry actions by eliminating gifts to HCPs and requiring disclosure in some instances. As a result, Vermont is considered a leader and model for other states interested in preserving education and training opportunities for HCPs, while maintaining freedom from industry influence.

Regarding conferences and sponsoring manufacturers, Vermont’s laws allow for manufacturers to **sponsor** an educational program accrediting CMEs provided that (1) no payment is made directly to a health care professional; (2) the funding is used solely for bona fide educational purposes, except that the manufacturer may provide meals and other food for program participants and (3) the program content is free of industry control. 18 V.S.A §§ 4631a (1)(A)(i)-(iii); 18 V.S.A § 4631a(H). Therefore, the best practice for a manufacturer who wishes to sponsor a conference is to provide *support* to the independent conference organizers and avoid *direct provision* of conference programming or meals.

When an event does not meet Vermont’s statutory criteria—*e.g.*, a lecture which does not qualify as a CME or that is directly sponsored by a manufacturer—a Vermont HCP may still attend the event, so long as that HCP either pays the fair market value of any sponsored meals. Alternatively, the HCP may elect to forego a meal – but that decision is left strictly to the judgment of the HCP.

The AGO recommends that conference organizers advise Vermont HCPs if a sponsored event does not comply with Vermont’s gift ban law and advise of the cost

¹ See, *e.g.*, Dana J, Loewenstein G., [A Social Science Perspective on gifts to physicians from Industry](#), *JAMA* 2003; 290:252-5 (“Because even small gifts can subtly bias how arguments are evaluated, they can be surprisingly influential.”); DeJong, C., *et al.*, [Pharmaceutical Industry- Sponsored Meals and Physician Prescribing Patterns for Medicare Beneficiaries](#); *JAMA Intern Med.* 2016; 176(8):1114-1122 (“[R]ecipient of industry-sponsored meals was associated with an increased rate of prescribing the brand-name medication that was being promote.”); Ornstein, C., Tigas, M., Grochowski Jones, R., [Now There’s Proof: Docs Who Get Company Cash Tend to Prescribe More Brand-Name Meds](#); *New York, NY: ProPublica*; 2015, <https://www.propublica.org/article/doctors-who-take-company-cash-tend-to-prescribe-more-brand-name-drugs>. Published March 17, 2016. Accessed March 1, 2018, (“Doctors who got money from drug and device makers—even just a meal—prescribed a higher percentage of brand-name drugs overall than doctors who didn’t, our analysis showed. Indeed, doctors who received industry payments were two to three times as likely to prescribe brand-name drugs at exceptionally high rates as others in their specialty.”), *et al.*

of the meal(s) in advance. In the event of a mistake—*e.g.*, if a Vermont HCP attends an event and eats a sponsored meal—the manufacturer can cure by reporting the meal and collecting the cost of the meal from the participant after the fact.

Vermont law should never be construed by conference sponsors, organizers, hosts, or manufacturers to bar any Vermont HCP from attending a lecture or event merely because food is served at the event.