

Memo

To: Manufacturers of Medical Devices, Pharmaceuticals and Biologics
From: Wendy Morgan, Chief of Public Protection Division Vermont Office of the Attorney General
Date: August 13, 2010 (Recipients corrected to include latter two on October 8, 2010)
Subject: Applicability of 2010 statutory amendments to FY10 disclosures

The 2010 amendments to Vermont's gift ban and disclosure law went into effect on May 27, 2010. The disclosures that are due by October 1, 2010, are for the fiscal year July 1, 2009, through June 30, 2010.

One question that has been raised is how the amendments affect the reporting requirements for FY10.

With respect to the amendments providing for more exceptions to the gift ban – such as donations to free clinics, or refreshments at a booth at a seminar – those expenditures are permissible commencing May 27. To the extent that such payments or expenditures were made between May 27 and June 30, 2010, they must be reported in the FY10 report submitted by October 1.

Another amendment changed the definition of “health care professional,” limiting covered individual recipients under the Vermont statute to those “who regularly practice in” Vermont. The consequence of this amendment is that ***manufacturers need not disclose gifts or allowable expenditures made to recipients who do not regularly practice in Vermont, for any expenditures made in FY10.***

Thus, the following provision, appearing in the FY10 Guide on page 9, and referring to reporting payments to Vermont licensees that do not regularly practice in Vermont, is superseded and does not apply:

An “out-of-state gift or allowable expenditure” can be used *only if* you verify that the recipient does not regularly practice in Vermont and you report the value, nature (e.g. food, travel, lodging), and purpose of the expenditure.

For FY 10, expenditures to health care professionals regularly practicing in Vermont must be reported. If, however, your report includes information about payments made or gifts given to Vermont licensees not regularly practicing in Vermont, you need not amend your reporting to delete it.

(cont.)

Although you are not required to send the Attorney General a verification regarding practitioners not regularly practicing in Vermont, you need for your own record keeping to be sure of that determination and be able to provide your basis for it if asked by the Attorney General.