

New Connecticut Law Requiring HCP Price Disclosure and Sales Rep Registration Effective October 1, 2023

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Connecticut recently passed a law requiring drug price disclosures to prescribers and imposing sales representative registration requirements, with some of the requirements effective October 1, 2023. This means manufacturers have six weeks to prepare for these new price and marketing disclosure requirements.

HCP Disclosure Requirements

Beginning on October 1, 2023, pharmaceutical representatives engaged in legend drug marketing interactions with “prescribing practitioners or pharmacists” in Connecticut must provide a written disclosure to such practitioners and pharmacists at the time of contact. The disclosure should include the “list price of [the] legend drug” and, if available, “information on the variation efficacy of the drug marketed to different racial and ethnic groups.” A pharmaceutical representative is defined as any person, including but not limited to, a sales representative who “markets, promotes, or provides information regarding a legend drug” to a prescribing practitioner and is employed or compensated by a pharmaceutical manufacturer. Although this requirement is similar to the HCP price disclosure requirements in Colorado and Vermont, it remains to be seen if any implementing regulations clarifying the law's requirements will be promulgated and/or if the state publishes guidance. While the law doesn't mention the Wholesale Acquisition Cost (“WAC”) specifically (it references “list price”), it is reasonable to believe that the WAC should be provided in the disclosure.

Company Registration and Reporting Requirements

Also beginning October 1, 2023, pharmaceutical manufacturers that employ individuals to perform the duties of a pharmaceutical sales representative must register as a pharmaceutical marketing firm with the Connecticut Department of Consumer Protection (“DCF”), pay a \$150 annual fee, and provide the names of all individuals employed by the company as pharmaceutical sales representatives. Going forward, companies must renew this registration annually by June 30. The list of names must be updated throughout the year and companies must submit updated information within two weeks if a sales representative leaves the company and/or new sales representatives are hired. The list of registered pharmaceutical sales representatives will be posted on the DCF website.

By July 1, 2024, and annually thereafter, all registered pharmaceutical marketing firms must submit a report of each registered sales representative's “performance” during the previous calendar year. The report must include: (i) aggregate number of contacts with prescribers and pharmacists; (ii) prescriber specialty; (iii) whether product samples, materials, or gifts were provided; and (iv) an aggregate samples report by drug name and strength. Submitted information will be compiled by DCF and publicly posted annually by December 1, beginning in 2024.

Non-compliance with these new requirements could result in the DCF Commissioner's refusal to approve a manufacturer's registration (or renewal) to operate as a pharmaceutical marketing firm in Connecticut, or result in a manufacturer's registration as a pharmaceutical marketing firm being revoked, limited or suspended, and a penalty of up to \$1,000 for each violation.

While the law is in effect and compliance requirements begin soon, there is plenty of uncertainty on how to comply. Porzio's team of Life Sciences attorneys can help you navigate your company's legal obligations under state laws, including obligations to disclose pricing information, register and/or report under the new Connecticut law.