

**MINNESOTA STATUTES § 151.461 – GIFTS TO PRACTITIONERS PROHIBITED**  
**Frequently Asked Questions**

**Q. Does the Minnesota Statute governing gifts apply to pharmacists?**

A. No. The law applies only to practitioners - pharmacists are not included in the definition of "practitioners" that is given in statutes. Essentially, a practitioner is anyone who can prescribe a prescription drug.

**Q. What is a "gift" for purposes of the Minnesota statute?**

A. It is reasonable to use the definition of "gift" as found in Minnesota Statutes 10A.071, subd. 1(b) and the Board has chosen to use that definition. Therefore, a gift would include any money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

**Q. Can any gifts be given to practitioners?**

A. Yes, M.S. § 151.461 allows practitioners to receive gifts from wholesalers and manufacturers up to a combined annual limit of \$50 in retail value. That is, the total retail value of gifts given to a practitioner must not exceed \$50 per year.

**Q. Are modest meals considered gifts under Minnesota law and under what circumstances may a practitioner accept a modest meal?**

A. Yes, modest meals are "gifts" under the definition mentioned above. However, there are situations provided for in statute where the provision of a meal by a manufacturer to a practitioner would be allowed. A meal is not considered a gift if the practitioner is serving on the faculty at a professional or educational conference or meeting or if the practitioner is providing to the manufacturer "substantial professional and consulting services" as part of a genuine research project. Also, the law does allow a manufacturer to provide a meal to a practitioner as a "gift" - as long as the total value of all gifts provided to the practitioner does not exceed the \$50 per year limit.

**Q. Under Minnesota law, is it appropriate to make cash payments to practitioners for participation in so-called "surveys" that are intended by pharmaceutical manufacturers to promote, market or sell a drug directly to those practitioners?**

A. No. Such practices would be considered commercial marketing activities, rather than bona fide market research (i.e. a "genuine research project") conducted by independent survey research organizations. Participation in marketing activities is not a "substantial service," nor does it involve a "genuine research project" as intended by the legislature. Therefore, cash payments to practitioners who participate in marketing activities are prohibited under the no gifts to practitioners statute.

**Q. Are cash payments to practitioners that attend educational conferences and programs appropriate under Minnesota law?**

A. No. While a practitioner who is on the faculty of an educational conference or program may be paid a reasonable amount for their services, practitioners who are merely attendees at the conference should not be given a cash payment.

**Q. What sort of payments made by a manufacturer or wholesaler to a practitioner are not considered gifts?**

A. M.S. § 151.461 states that the following items and types of payments are **not** gifts. A manufacturer or wholesaler may legally make these payments, but must file an annual report with the Board of pharmacy concerning the payments it makes for items (4) and (5):

- (1) professional samples of a drug provided to a prescriber for free distribution to patients;
- (2) items with a total combined retail value, in any calendar year, of not more than \$50;
- (3) a payment to the sponsor of a medical conference, professional meeting, or other educational program, provided the payment is not made directly to a practitioner and is used solely for bona fide educational purposes;
- (4) reasonable honoraria and payment of the reasonable expenses of a practitioner who serves on the faculty at a professional or educational conference or meeting;
- (5) compensation for the substantial professional or consulting services of a practitioner in connection with a genuine research project;
- (6) publications and educational materials; or
- (7) salaries or other benefits paid to employees.

**Q. Do wholesalers and manufacturers have to report gifts to the Minnesota Board of Pharmacy?**

A. No. However, they do have to report any payments that they make to practitioners under items (3), (4) and (5) that are listed in the preceding answer – if such payments exceed \$100 annually. The Board sends out a notice to wholesalers and manufacturers late each year and directs them to download a spreadsheet template from the Board's Web site. The template must be completed and returned, in an electronic format, May 1st.

**Q. Are textbooks considered gifts under Minnesota law?**

A. Yes. Textbooks likely do not fall under the "publications and educational materials" exception as intended by the Legislature. "Publications and educational materials" refers to materials used by a manufacturer or wholesaler to market a specific product. (e.g. - reprints of journal articles, marketing brochures and related materials, and instructional materials intended for use in educating patients about a specific drug that a manufacturer sells). Textbooks, subscriptions to online services that provide general medical and drug information and other general references are considered "gifts" that are subject to the \$50 aggregate annual limit.