

# Prescription Drug Marketing Code of Conduct

This Act requires wholesalers and manufacturers who employ a person to sell or market a drug, medicine, chemical, device or appliance in the state to adopt a written marketing code of conduct. This bill also requires a wholesaler or manufacturer to adopt a training program and policies and procedures, identify a compliance officer, conduct an annual audit and submit an annual report certifying the wholesaler's or manufacturer's compliance with the marketing code of conduct.

Submitted as:

Nevada

AB 128

Status: Enacted into law in 2007.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as “An Act to Adopt a Prescription Drug  
2 Marketing Code of Conduct.”

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          Section 2. [*Prescription Drug Marketing Code of Conduct.*]

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          (A) A wholesaler or manufacturer who employs a person to sell or market a drug,  
6 medicine, chemical, device or appliance in this State shall:

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          (1) Adopt a written marketing code of conduct which establishes the practices and  
8 standards that govern the marketing and sale of its products. The marketing code of conduct must  
9 be based on applicable legal standards and incorporate principles of health care, including,  
10 without limitation, requirements that the activities of the wholesaler or manufacturer be intended  
11 to benefit patients, enhance the practice of medicine and not interfere with the independent  
12 judgment of health care professionals. Adoption of the most recent version of the Code on  
13 Interactions with Healthcare Professionals developed by the Pharmaceutical Research and  
14 Manufacturers of America satisfies the requirements of this paragraph.

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          (2) Adopt a training program to provide regular training to appropriate employees,  
16 including, without limitation, all sales and marketing staff, on the marketing code of conduct.

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          (3) Conduct annual audits to monitor compliance with the marketing code of  
18 conduct.

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          (4) Adopt policies and procedures for investigating instances of noncompliance  
20 with the marketing code of conduct, including, without limitation, the maintenance of effective  
21 lines of communication for employees to report noncompliance, the investigation of reports of  
22 noncompliance, the taking of corrective action in response to noncompliance and the reporting of  
23 instances of noncompliance to law enforcement authorities in appropriate circumstances.

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          (5) Identify a compliance officer responsible for developing, operating and  
25 monitoring the marketing code of conduct.

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          (B) A wholesaler or manufacturer who employs a person to sell or market a drug,  
27 medicine, chemical, device or appliance in this State shall submit to the [Board] [annually]:

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          (1) A copy of its marketing code of conduct;

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          (2) A description of its training program;

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          (3) A description of its investigation policies;

31 (4) The name, title, address, telephone number and electronic mail address of its  
32 compliance officer; and

33 (5) Certification that it has conducted its annual audit and is in compliance with  
34 its marketing code of conduct.

35 (C) On or before [January 15] of each odd-numbered year, the [Board] shall prepare and  
36 submit to the [Governor, and to the Director of the Legislative Counsel Bureau] for transmittal to  
37 the [Legislature], a compilation of the information submitted to the [Board] pursuant to this  
38 section, other than any information identified as a trade secret in the information submitted to the  
39 [Board].

40 (D) The [Board]:

41 (1) Shall adopt regulations providing for the time of the submission and the form  
42 of the information required pursuant to this section and defining “compliance” for the purposes  
43 of this section.

44 (2) May not require the disclosure of the results of an audit conducted pursuant to  
45 this section.

46 (3) Shall post on its Internet website information concerning the compliance of all  
47 wholesalers and manufacturers with the requirements of this section.

48 (4) Shall not disclose any proprietary or confidential business information that it  
49 receives pursuant to this section.

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51 Section 3. [*Severability.*] [Insert severability clause.]

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53 Section 4. [*Repealer.*] [Insert repealer clause.]

54

55 Section 5. [*Effective Date.*] [Insert effective date.]