

By Senator Aronberg

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1 A bill to be entitled
 2 An act relating to drug prescriptions; providing
 3 definitions; prohibiting the licensure, transfer, use,
 4 or sale of records of information relating to drug
 5 prescriptions containing certain identifiable data
 6 regarding patients and prescribers; providing that the
 7 act does not prohibit certain activities involving
 8 prescription information or the collection, use,
 9 transfer, or sale of information that does not
 10 identify a patient or prescriber; providing that a
 11 violation of the act is a deceptive and unfair trade
 12 practice; providing a penalty; providing an effective
 13 date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Commercial use of certain information contained
 18 in drug prescriptions prohibited.-

19 (1) As used in this section, the term:

20 (a) "Commercial purpose" means, but is not limited to,
 21 advertising, marketing, promotion, or any activity that could be
 22 used to:

23 1. Influence sales or market share of a pharmaceutical
 24 product;

25 2. Influence or evaluate the prescribing behavior of an
 26 individual health care professional; or

27 3. Evaluate the effectiveness of a professional
 28 pharmaceutical sales force.

29 (b) "Prescriber" means any person or entity licensed to

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30 prescribe medicinal drugs.

31 (2) Records of information about drug prescriptions
32 containing patient-identifiable and prescriber-identifiable data
33 may not be licensed, transferred, used, or sold by a pharmacy
34 benefits manager, an insurance company, or an electronic
35 transmission intermediary; a retail, mail order, or Internet
36 pharmacy; or other similar entity for any commercial purpose.
37 However, such records may be used for the limited purposes of
38 pharmacy reimbursement; formulary compliance; health care
39 management; utilization review by a health care provider,
40 insurance provider, or agent of the health care provider or
41 insurance provider; health care research; or as otherwise
42 provided by law.

43 (3) This section does not prohibit the dispensing of
44 prescription drugs to a patient or to the patient's authorized
45 representative, the transmission of prescription information
46 between an authorized prescriber and a licensed pharmacy, the
47 transfer of prescription information between licensed
48 pharmacies, the transfer of prescription records that may occur
49 if ownership of a pharmacy is changed or transferred,
50 educational communications provided to a patient about the
51 patient's health condition or adherence to a prescribed course
52 of therapy, or the provision of other information about a drug
53 being dispensed, treatment options, or clinical trials. This
54 section does not prohibit the collection, use, transfer, or sale
55 of medical information about an individual for commercial
56 purposes, identified by zip code, geographic region, or medical
57 specialty, if that information does not identify the patient or
58 prescriber.

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59 (4) A violation of this section is a deceptive and unfair
60 trade practice under part II of chapter 501, Florida Statutes,
61 and is punishable as provided in s. 501.2075, Florida Statutes.

62 Section 2. This act shall take effect July 1, 2009.