

By: Van de Putte

S.B. No. 1620

A BILL TO BE ENTITLED

AN ACT

relating to confidentiality of prescription information; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 562, Occupations Code, is amended by adding Section 562.112 to read as follows:

Sec. 562.112. PRESCRIPTION INFORMATION TO BE KEPT CONFIDENTIAL. (a) Records relating to prescription information containing patient-identifiable and prescriber-identifiable data may not be licensed, transferred, used, or sold by any pharmacy benefits manager, insurance company, electronic transmission intermediary, or retail, mail order, or Internet pharmacy or other similar entity for any commercial purpose except for the limited purposes of pharmacy reimbursement, formulary compliance, care management, health care research, or utilization review by a health care provider, the patient's insurance provider, or the agent of either, or as otherwise provided by law.

(b) In this section, "commercial purpose" includes advertising, marketing, promotion, or any activity that could be used to influence the sales or market share of a pharmaceutical product, to influence or to evaluate the prescribing behavior of an individual health care professional, or to evaluate the effectiveness of a professional pharmaceutical detailing sales force.

1           (c) Nothing in this section shall prohibit:

2                   (1) the dispensing of prescription medications to a  
3 patient or to the patient's authorized representative;

4                   (2) the transmission of prescription information  
5 between an authorized prescriber and a licensed pharmacy;

6                   (3) the transfer of prescription information between  
7 licensed pharmacies;

8                   (4) the transfer of prescription records that may  
9 occur in the event a pharmacy ownership is changed or transferred;

10                   (5) care management educational communications  
11 provided to a patient about the patient's health condition or  
12 adherence to a prescribed course of therapy or other information  
13 about the drug being dispensed, treatment options, or clinical  
14 trials; or

15                   (6) the collection, use, transfer, or sale of patient  
16 and prescriber de-identified data by zip code, geographic region,  
17 or medical specialty for commercial purposes.

18           (d) In addition to other appropriate remedies under this  
19 subtitle, a violation of this section is an unfair or deceptive  
20 trade practice under Chapter 17, Business & Commerce Code.

21           SECTION 2. This Act takes effect September 1, 2007.