

1-1 By: Deuell S.B. No. 2423
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 24, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2423 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to transfer or sale of patient information or prescription
1-11 drug history by discount health care programs.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivisions (3) and (4), Section 76.001, Health
1-14 and Safety Code, are amended to read as follows:

1-15 (3) "Discount health care program" means a business
1-16 arrangement or contract in which an entity, in exchange for fees,
1-17 dues, charges, or other consideration, offers its members access to
1-18 discounts on health care services provided by health care
1-19 providers. The term does not include an insurance policy,
1-20 certificate of coverage, or other product regulated by the Texas
1-21 Department of Insurance or a self-funded or self-insured employee
1-22 benefit plan. For purposes of this subsection, consideration
1-23 includes patient information or patient prescription drug history
1-24 provided by members, if the entity engages in the transfer or sale
1-25 of such patient information, patient prescription drug history, or
1-26 drug manufacturer rebates.

1-27 (4) "Discount health care program operator" means a
1-28 person who, in exchange for fees, dues, charges, or other
1-29 consideration, operates a discount health care program and
1-30 contracts with providers, provider networks, or other discount
1-31 health care program operators to offer access to health care
1-32 services at a discount and determines the charge to members. For
1-33 purposes of this subsection, consideration includes patient
1-34 information or patient prescription drug history provided by
1-35 members, if the person engages in the transfer or sale of such
1-36 patient information, patient prescription drug history, or drug
1-37 manufacturer rebates.

1-38 SECTION 2. Section 76.053, Health and Safety Code, is
1-39 amended by adding Subsection (a-1) and amending Subsection (b) to
1-40 read as follows:

1-41 (a-1) If a program operator engages in the transfer or sale
1-42 of a member's patient information or patient prescription drug
1-43 history, the program operator shall, before enrollment, provide
1-44 each prospective member disclosure materials describing the
1-45 program operator's practices regarding such transfer or sale.

1-46 (b) A marketer shall use disclosure materials that comply
1-47 with this section [~~Subsection (a)~~].

1-48 SECTION 3. This Act takes effect September 1, 2009.

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