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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

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A N A C T

RELATING TO HEALTH AND SAFETY - PRESCRIPTION PRIVACY ACT

Introduced By: Senators Pichardo, C Levesque, Perry, and Metts

Date Introduced: February 15, 2007

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 82

4 PRESCRIPTION PRIVACY ACT

5 **23-82-1. Short title.** – This chapter shall be known and may be cited as the "Prescription  
6 Privacy Act."

7 **23-82-2. Prescription privacy.** – (a) Information that identifies a specific prescriber or  
8 patient on a prescription shall not be transferred by any pharmacy, pharmacy benefits manager,  
9 insurance provider, data transfer intermediary, or their agents.

10 (b) Exceptions – The following exceptions shall apply if no payment is received for the  
11 disclosure information that identifies a specific prescriber or patient or a prescription may be  
12 released to:

13 (1) The patient for whom the original prescription was issued.

14 (2) A licensed prescriber who issued the prescription or who treats the patient.

15 (3) An officer inspector or investigator for a government health licensing or law  
16 enforcement agency.

17 (4) A person authorized by a court order to receive the information.

18 (5) A pharmacy or Medicaid researcher who has written authorization signed by the  
19 patient or patients legal guardian to receive such information.

1 (6) Another pharmacy for the limited purpose of preventing individuals from misusing or  
2 falsifying prescription forms to illegally obtain excessive or unauthorized drugs.

3 (7) The patients insurance provider or the provider's agent for the limited purpose of  
4 reimbursing the pharmacy.

5 (c) Enforcement – For a violation of this section, the department of health can institute an  
6 action against the violation including costs, attorneys' fees and a civil penalty can be imposed.  
7 Each unlawful disclosure shall constitute a separate violation.

8 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
9 amended by adding thereto the following chapter:

10 CHAPTER 83

11 PRESCRIPTION DRUG ETHICAL MARKETING ACT

12 **23-83-1. Short title.** – This chapter shall be known and may be the "Prescription Drug  
13 Ethical Marketing Act."

14 **23-83-2. Findings and purpose.** – It is hereby found and declared as follows:

15 (1) Prescription drugs are the fastest growing component of health care spending in the  
16 United States.

17 (2) Drug manufacturers' marketing to doctors, or "detailing" causes doctors to prescribe  
18 the most expensive medicines even when less expensive drugs are as effective or safer.

19 (3) Gifts from prescription drug detailers to doctors play a major role in persuading  
20 doctors to change which drugs they prescribe.

21 (4) This law is enacted to lower prescription drug costs for individuals businesses and the  
22 state and to protect the rights of residents by determining the practice of unethical gift-giving by  
23 drug manufacturers.

24 **23-83-3. Definitions.** – (1) "Pharmaceutical Marketer" means a person who while  
25 employed by or under contract to represent a manufacturer or labeler, engages in pharmaceutical  
26 detailing, promotional activities or other marketing of prescription drugs in this state to any  
27 physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other  
28 person authorized to prescribe or dispense prescription drugs.

29 (2) "Manufacturer" means a manufacturer of prescription drugs, including a subsidiary as  
30 defined in 42 U.S.C section 1396r-8(k)(5) or affiliate of a manufacturer.

31 (3) "Labeler" means an entity or person that receives prescription drugs from a  
32 manufacturer or wholesaler to repackage for retail sale , and that has a labeler code from the Food  
33 and Drug Administration under 21 CFR section 207.20.

34 **23-83-4. Disclosure.** – (1) On or before January 1, of each year, every manufacturer and

1 labeler that sells prescription drugs in the state shall disclose to the department of health the name  
2 and address of the individual responsible for the company's compliance with the provisions of  
3 this section.

4 (2) On or before February 1, of each year, every manufacturer and labeler that sells  
5 prescription drugs in the state shall file a marketing disclosure report with the department of  
6 health listing the value, nature and purpose of any gift, fee, payment, subsidiary or other  
7 economic benefit provided in connection with detailing promotion or other marketing activities  
8 by the company, directly or through its pharmaceutical marketers, to any physician, hospital,  
9 nursing home, pharmacist health benefit plan administrator, or any other person authorized to  
10 prescribe or dispense prescription drugs. Each gift recipient shall be clearly identified by full  
11 name and address. The marketing disclosure report shall cover the prior year and be submitted on  
12 paper and in a standardized electronic database format.

13 (3) On or before February 15 of each year, the marketing disclosure reports shall be  
14 available to the public on paper and through the Internet.

15 (4) The following are exempt from the disclosure requirement:

16 (a) Any gift, fee, payment subsidy or other economic benefit worth less than twenty-five  
17 dollars (\$25).

18 (b) Free samples of prescription drugs to be distributed to patients.

19 (c) The payment of reasonable compensation and reimbursement of expenses in  
20 connection with a bona fide clinical trial conducted in connection with a research study designed  
21 to answer specific questions about vaccines, new therapies, or new uses of known treatments.

22 (d) Scholarship or other support for medical students, residents and fellows to attend a  
23 bona fide educational scientific or policy-making conference of an established professional  
24 association if the recipient of the scholarship or other support is selected by the association.

25 **23-83-5. Enforcement.** – (1) This section shall be enforced by the department of health,  
26 shall promulgate regulations as needed to implement and administer compliance as well as  
27 described bona fide clinical trials and bona fide conferences.

28 (2) If a manufacturer or labeler violates this section an action may be brought for  
29 injunctive relief costs, attorneys' fees, and a civil penalty of up to ten thousand dollars (\$10,000)  
30 per violation. Each unlawful failure to disclose shall constitute a separate violation.

31 SECTION 3. This act shall take effect upon passage.

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY - PRESCRIPTION PRIVACY ACT

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- 1           This act would create two new chapters of the general laws one dealing with prescription
- 2    privacy that is information identifying a patient shall not be transferred and a chapter dealing with
- 3    ethical marketing of prescriptions.
- 4           This act would take effect upon passage.

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