



## **Bill makes it illegal for drug makers to buy prescription data for marketing**

**NIKI SULLIVAN**

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When drug company representatives visit your doctor's office, they're bringing more than coffee mugs and free lunch: They have a detailed log of exactly what your doctor prescribes, how often and when.

They use the information to create targeted marketing plans in an effort to sway doctors to prescribe their products.

A bill that's already passed the state Senate and faced a House panel Monday would make it illegal to buy detailed prescription practices for marketing. Despite heavy lobbying against the measure from pharmaceutical companies – among the most powerful forces in the capital – House Speaker Frank Chopp, D-Seattle, said the bill has a good chance of passing this session.

A dozen other states have considered similar measures to outlaw the practice, and laws have passed in Vermont, New Hampshire and Maine. In the latter two states, the laws were challenged by pharmaceutical companies and overturned by federal judges.

Drug companies say such restrictions would be dangerous for patients and would violate their commercial free speech rights. They also note that physicians can opt out.

### **PRIVACY CONCERNS**

The marketing depends on a practice called "data mining," where drug companies buy detailed prescription data from pharmacies, then match it with prescriber numbers purchased from the American Medical Association.

By linking the two data sets, drug companies get a comprehensive catalog of prescription data.

Because prescriber numbers are assigned to every doctor, even those who aren't members of the AMA are included in the database, which it calls the "Masterfile." The AMA makes about \$45 million by selling the list every year. That amounts to about 15 percent of the organization's budget.

"Essentially, there's not a doctor in the country whose data is not being purchased from the drug companies," said Dr. Rupin Thakkar, a pediatrician from Edmonds. Even though

he refuses to meet with drug reps, he said the marketing technique has nonetheless reached him.

“Drug reps will even use my profile to let my colleagues know what I’ve been prescribing,” Thakkar said in an interview Monday.

Thakkar said he felt his privacy was invaded when his colleagues approached him with information he thought was private. He’s also worried about what it means for his patients.

The federal health privacy law known as HIPPA prohibits patient identifiers from being shared or sold without patients’ permission. But Thakkar said it could be possible to identify individual patients in small communities.

Critics also say the practice increases costs, violates doctor-patient privacy and can jeopardize consumers’ safety by pushing newer drugs that aren’t necessarily more effective.

“What we know for certain is that this form of marketing absolutely influences doctors’ prescribing practices. We also know that it increases costs. Pharmaceutical companies would not be spending \$3 billion a year if they were not profiting from it,” said Robby Stern, a lobbyist with the Healthy Washington Coalition, a broad-based group lobbying for more affordable health care.

“We’re in a situation where the states are becoming the only line of consumer protection defense on this stuff,” Stern said.

Drug companies and data mining companies counter that it’s difficult – if not impossible – to differentiate between marketing and research. They also said such a law would violate their commercial free speech rights.

“When you look at the bigger picture, new therapies often prolong life, increase productivity and diminish costs,” said Robert Hunkler, a spokesman for IMS Health, a company that compiles the data.

Hunkler said the AMA already has an opt-out program that allows physicians to decline to have their data shared with marketers.

## **HARM TO PATIENTS?**

Physicians who opt out must do so every three years. Their information is still sent to companies that buy it, but they essentially promise not to use it.

Rep. Bill Hinkle, R-Cle Elum, said he was “amused that physicians act like victims,” since the opt-out policy is available.

Hunkler and others opposed to the bill said it would also harm patients by slowing the release of information.

For example, he said, if there were a breakthrough drug to treat Alzheimer's, pharmaceutical companies would have to contact all 27,000 of the state's doctors in order to find the few who treat the majority of patients suffering from the disease.

But Art Zoloth, with the Washington Coalition of Prescribing Integrity, said he didn't buy the argument.

"Do you want your physician to make a decision based on marketing, or do you want a decision based on evidence?" Zoloth said.

The House health committee did not vote on Senate Bill 6241, but it's expected to pass before the end of the session.