

AN ACT

relating to the transfer or sale of patient information or prescription drug history by discount health care programs; providing penalties.

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

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

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

(4) "Discount health care program operator" means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care

1 services at a discount and determines the charge to members. For
2 purposes of this subsection, consideration includes patient
3 information or patient prescription drug history provided by
4 members, if the person engages in the transfer or sale of such
5 patient information, patient prescription drug history, or drug
6 manufacturer rebates.

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

10 (a-1) If a program operator engages in the transfer or sale
11 of a member's patient information or patient prescription drug
12 history, the program operator shall, before enrollment, provide
13 each prospective member disclosure materials describing the
14 program operator's practices regarding such transfer or sale.

15 (b) A marketer shall use disclosure materials that comply
16 with this section [~~Subsection (a)~~].

17 SECTION 3. Title 21, Insurance Code, is amended by adding
18 Chapter 7002 to read as follows:

19 CHAPTER 7002. SUPPLEMENTAL PROVISIONS RELATING TO DISCOUNT HEALTH
20 CARE OPERATORS

21 Sec. 7002.001. DEFINITION. For purposes of Chapters 562
22 and 7001, Insurance Code, consideration provided to a discount
23 health care program or a discount health care program operator
24 includes patient information or patient prescription drug history
25 provided by members, if the entity engages in the transfer or sale
26 of such patient information, patient prescription drug history, or
27 drug manufacturer rebates.

1 Sec. 7002.002. REQUIRED DISCLOSURE. If a discount health
2 care program operator engages in the transfer or sale of a member's
3 patient information or patient prescription drug history, the
4 program operator shall, before enrollment, provide each
5 prospective member disclosure materials describing the program
6 operator's practices regarding such transfer or sale.

7 Sec. 7002.003. VIOLATION; PENALTIES. A violation of this
8 chapter may be enforced in the same manner as a violation of Chapter
9 562 or 7001.

10 SECTION 4. (a) Sections 1 and 2 of this Act take effect
11 only if House Bill No. 4341 or Senate Bill No. 2339, Acts of the 81st
12 Legislature, Regular Session, 2009, or another Act of the 81st
13 Legislature, Regular Session, 2009, enacting Chapter 562 and Title
14 21, Insurance Code, concerning discount health care programs is not
15 enacted or does not become law.

16 (b) Section 3 of this Act takes effect only if House Bill No.
17 4341 or Senate Bill No. 2339, Acts of the 81st Legislature, Regular
18 Session, 2009, or another Act of the 81st Legislature, Regular
19 Session, 2009, enacting Chapter 562 and Title 21, Insurance Code,
20 concerning discount health care programs is enacted and becomes
21 law.

22 SECTION 5. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2423 passed the Senate on May 1, 2009, by the following vote: Yeas 31, Nays 0; May 21, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2009, House granted request of the Senate; May 30, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2423 passed the House, with amendments, on May 15, 2009, by the following vote: Yeas 144, Nays 0, one present not voting; May 23, 2009, House granted request of the Senate for appointment of Conference Committee; May 28, 2009, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor