

JAN 23 2009

---

---

# A BILL FOR AN ACT

RELATING TO PRESCRIPTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. Chapter 328, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:
- 4           "§328- Confidentiality of prescription information. (a)  
5 Records relative to prescription information containing patient-  
6 identifiable or prescriber-identifiable data shall not be  
7 licensed, transferred, used, or sold by any pharmacy benefits  
8 manager, insurance company, electronic transmission  
9 intermediary, retail, mail order, or internet pharmacy or other  
10 similar entity, for any commercial purpose, except for the  
11 limited purposes of:
- 12           (1) Pharmacy reimbursement;  
13           (2) Formulary compliance;  
14           (3) Care management;  
15           (4) Utilization review by a health care provider, the  
16           patient's insurance provider, or the agent of either;  
17           (5) Health care research; or



- 1        (6) As otherwise provided by law.
- 2        (b) Nothing in this section shall prohibit:
- 3        (1) The dispensing of prescription medications to a
- 4                patient or to the patient's authorized representative;
- 5        (2) The transmission of prescription information between
- 6                an authorized prescriber and a licensed pharmacy;
- 7        (3) The transfer of prescription information between
- 8                licensed pharmacies;
- 9        (4) The transfer of prescription records that may occur in
- 10               the event a pharmacy ownership is changed or
- 11               transferred; and
- 12        (5) Care management educational communications provided to
- 13               a patient about the patient's health condition,
- 14               adherence to a prescribed course of therapy, or other
- 15               information about the drug being dispensed, treatment
- 16               options, or clinical trials.
- 17        (c) Nothing in this section shall prohibit the collection,
- 18 use, transfer, or sale of patient and prescriber de-identified
- 19 data by zip code, geographic region, or medical specialty for
- 20 commercial purposes.
- 21        (d) In addition to other appropriate penalties and
- 22 remedies under this part, a violation of this section is an



1 unfair or deceptive act or practice pursuant to chapters 481A or  
2 481B, or both. Any right or remedy set forth in chapters 481A  
3 or 481B may be used to enforce the provisions of this section,  
4 as applicable.

5 For the purposes of this section, "commercial purpose"  
6 means advertising, marketing, promotion, or any activity that  
7 could be used to influence sales or market share of a  
8 pharmaceutical product, influence or evaluate the prescribing  
9 behavior of an individual health care professional, or evaluate  
10 the effectiveness of a professional pharmaceutical detailing  
11 sales force."

12 SECTION 2. Section 329-36, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§329-36 Records of registrants.** (a) Persons registered  
15 to manufacture, distribute, prescribe or dispense controlled  
16 substances under this chapter shall keep records and maintain  
17 inventories in conformance with the record-keeping and inventory  
18 requirements of federal law and with any additional rules the  
19 department of public safety issues.

20 (b) Records relative to prescription information  
21 containing patient-identifiable or prescriber-identifiable data  
22 shall not be licensed, transferred, used, or sold by any person



1 registered to manufacture, distribute, prescribe, or dispense  
2 controlled substances under this chapter."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY: \_\_\_\_\_

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
**By Request**



**Report Title:**

Prescription; Confidentiality; Data

**Description:**

Prohibits the license, transfer, use, or sale of records relative to prescription information that contain patient-identifiable or prescriber-identifiable data.

