

EXHIBIT A - Part 3

164

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1346

BILL TITLE: requiring certain persons to keep the contents of prescriptions confidential.

DATE: January 31, 2006

LOB ROOM: 205

Amendments:

Sponsor: Rep. Rosenwald OLS Document #: 2006 0684h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, JTL, Interim Study (Please circle one.)

Moved by Rep. Hogancamp

Seconded by Rep. Jillett

Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, JTL, Interim Study (Please circle one.)

Moved by Rep. Hogancamp

Seconded by Rep. Rosenwald

Vote: 16-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carolyn A. Brown, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1346

BILL TITLE: requiring certain persons to keep the contents of prescriptions confidential.

DATE: 1-31-06

LOB ROOM: 205

Amendments:

Sponsor: Rep. Rosenwald

OLS Document #: 2006-0684h

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: (OTP) OTP/A, ITL, Interim Study (Please circle one.) 2006-0684h

Moved by Rep. Hogan camp

Seconded by Rep. Jellitt

Vote: (Please attach record of roll call vote.)

16-0

Motions: OTP, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. Hogan camp

Seconded by Rep. Rosenwald

Vote: (Please attach record of roll call vote.)

16-0

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carolyn A. Brown, Clerk

OFFICE OF THE HOUSE CLERK

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill # HB 1346 Title: requiring Certain persons to keep perscription Confiden

PH Date: 11/24/06 Exec Session Date: 11/31/06

Motion: OTR/A Amendment #: _____

MEMBER	YEAS	NAYS
Batula, Peter L, Chairman	✓	
MacKay, James R, V Chairman	✓	
Chabot, Robert F		
Katsakiores, Phyllis M	✓	
Barry, J Gail		
Brown, Carolyn A, Clerk	✓	
McMahon, Charles E		
Weldy, Norman E		
Emerson, Susan	✓	
Johnson, Rogers J		
Hogancamp, Deborah J	✓	
Mason, April H	✓	
French, Barbara C	✓	
Donovan, Thomas E	✓	
Sokol, Hilda W	✓	
Miller, Joseph M	✓	
Schulze, Joan H	✓	
Jillette, Arthur G	✓	
Rosenwald, Cindy	✓	
Chaplin, Duncan D	✓	
Tilton, Joy K	✓	
	16	0

OFFICE OF THE HOUSE CLERK

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB 1346 Title: Requiring certain person to keep prescription Confidential

PH Date: 1/24/06 Exec Session Date: 1/31/06

Motion: OT P Amendment #: 2006-0684h

MEMBER	YEAS	NAYS
Batula, Peter L, Chairman	✓	
MacKay, James R, V Chairman	✓	
Chabot, Robert F		
Katsakiores, Phyllis M	✓	
Barry, J Gail		
Brown, Carolyn A, Clerk	✓	
McMahon, Charles E		
Weldy, Norman E		
Hess, David W		
Emerson, Susan	✓	
Hogancamp, Deborah J	✓	
Mason, April H	✓	
Chaplin, Duncan D	✓	
French, Barbara C	✓	
Donovan, Thomas E	✓	
Sokol, Hilda W	✓	
Miller, Joseph M	✓	
Schulze, Joan H	✓	
Jillette, Arthur G	✓	
Rosenwald, Cindy	✓	
Tilton, Joy K	✓	
	16	0
TOTAL VOTE:		

Rep. Rosenwald, Hills. 22
January 31, 2006
2006-0684h
01/10

was not used

Amendment to HB 1346

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Section; Pharmacists and Pharmacies; Prescription Information to be Kept Confidential.

4 Amend RSA 318 by inserting after section 47-e the following new section:

5 318:47-f Prescription Information to be Kept Confidential. Records relative to prescription
6 information containing identifiable patient and prescriber data shall not be used, transferred,
7 licensed, or sold by any pharmacy benefits manager, insurance company, electronic transmission
8 intermediary, retail, mail order, or Internet pharmacy or other similar entity, for any commercial
9 purpose, except for the limited purpose of reimbursing the pharmacy by the patient's insurance
10 provider or the provider's agent. Commercial purpose includes, but is not limited to, advertising,
11 marketing, promotion, or any other purpose that could be used to influence sales or market share of
12 a pharmaceutical product, influence or evaluate the prescribing behavior of an individual health care
13 professional, or evaluate the effectiveness of a professional detailing sales force. In addition to other
14 appropriate remedies under this chapter, a violation of this section is an unfair or deceptive act or
15 practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be
16 used to enforce the provisions of this section.

17 2 New Paragraph; Controlled Drug Act; Prescription Information to be Kept Confidential.

18 Amend RSA 318-B:12 by inserting after paragraph III the following new paragraph:

19 IV. Records relative to prescription information containing identifiable patient and
20 prescriber data shall not be used, transferred, licensed, or sold by any pharmacy benefits manager,
21 insurance company, electronic transmission intermediary, retail, mail, or Internet pharmacy or other
22 similar entity, for any commercial purpose, except for the limited purpose of reimbursing the
23 pharmacy by the patient's insurance provider or the provider's agent. Commercial purpose includes,
24 but is not limited to, advertising, marketing, promotion, or any other purpose that could be used to
25 influence sales or market share of a pharmaceutical product, influence or evaluate the prescribing
26 behavior of an individual health care professional, or evaluate the effectiveness of a professional
27 detailing sales force. In addition to other appropriate remedies under this chapter, a violation of this
28 paragraph is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or
29 remedy set forth in RSA 358-A may be used to enforce the provisions of this paragraph.

30 3 Effective Date. This act shall take effect July 1, 2006.

Amendment to HB 1346

- Page 2 -



2006-0684h

AMENDED ANALYSIS

This bill declares that prescription information shall not be used, transferred, licensed, or sold for any commercial purpose except for the limited purpose of reimbursing the pharmacy.

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 1346

BILL TITLE: requiring certain persons to keep the contents of prescriptions confidential.
DATE: Jan. 24, 2006
LOB ROOM: 205 Time Public Hearing Called to Order: 10:00 a.m.
Time Adjourned: 11:10

(please circle if present)

Committee Members: Reps. Batula, MacKay, Chabot, P. Katsakiores, Emerson, Barry, C. Brown, C. McMahon, Weldy, Hess, Hogancamp, Mason, Chaplin, French, Sokol, Miller, Donovan, Schulze, Gillette, Rosenwald and J. Tilton.

Bill Sponsors: Reps. Rosenwald, MacKay, Miller, Price, Sens. Gottesman, Foster, Martel, Larsen

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Rosenwald, sponsor, supporting
-prescription profiling removes patient's name - would like doctor's name removed as well

Marc Sadowsky, MD, Concord, NH Medical Society representing self and society
-supporting bill, submitted written testimony
-drug company marketing drugs that are not generic - as generic drugs are cheaper and not marketed as heavily
-name brand or generic drug may alter the outcome for a patient
-patient may not be able to afford name-brand drug and not properly take medications
-name-brand and generic drugs are not always the same, may contain different ingredients

Rep. Kurk, supporting
-prescription records should be as confidential as medical records

Sofia Plotzker, Robert Hunkler, representing IMS Health in PA., opposing bill
-more than a dozen states have brought forth similar bills an none of them have passed
-marketing provides free samples to general doctors not targeted to doctors with heavy use of certain drugs
-patient privacy has been already stripped when IMS receives information

Greg Moore, DHHS, supporting
-this bill preserves his prescription trade secrets to prescribing medications
-there are over 6,000 prescribers in this state

HB 1346(2)

Bill Hamilton, representing AARP NH, supporting
-submitted written testimony

Valerie Acres, representing Pharmaceutical Research & Manufacturers of America
-opposing
-submitted written testimony

Palmer Jones, representing NH Medical Society, supporting
-number of prescribers is 4400
-also non-practitioners
-this information should stay between patient and doctor

Sen. Larsen, supporting

Claire Ebel, representing NHCLU, supporting

Stuart Trachy, NH Association of Chain Drug Stores, opposing
-submitted written testimony
-believes bill is too broad needs to be narrowed to support privacy
-unintended consequences will hamper who can pick up a prescription

Respectfully submitted,



Rep. Carolyn A. Brown
CLERK OF THE COMMITTEE

**AARP New Hampshire Testimony on HB 1512
House Health, Human Services and Elderly Affairs Committee
January 24, 2006**

Good morning. I am Bill Hamilton Advocacy Director for AARP NH. AARP is a nonprofit membership organization of persons 50 plus years of age and we have over 215,000 members throughout the state. Thank you Chairman Batula and members of the Health, Human Services and Elderly Affairs Committee for the opportunity to share our views with you.

Prescriber profiling is a method used by pharmaceutical detailers to target prescribers with specific information. Detailers are armed with a prescriber's pharmaceutical prescribing history and a detailer knows exactly how many of the competitors' products they have prescribed. This information details a prescriber's prescribing history including dose and medical diagnosis. With that information in hand, a detailer has a significant advantage to tailor his or her presentation directly to the individual prescriber. The detailer can tell if the prescriber prefers a specific brand to another and if they prescribe heavily in a particular class of drugs.

AARP NH is concerned over the use of prescriber profiles to track physician prescribing patterns. While AARP recognizes the significant help this practice provides to the manufacturer, the consumers are at risk. A consumer could be switched or even started with a specific drug that is not the best prescription for the individual. The prescriber's decision may be based less on a drug's clinical attributes and more on specific information provided by the detailer.

Thank you for your efforts to prescriber profiles. We would like to be a continuing resource to you on this topic, and will be prepared to give further testimony at the subcommittee level.



January 24, 2006

Dear Committee Member:

IMS Health ("IMS") opposes HB 1346 as currently written because it will eliminate many beneficial uses of prescription information, and have unintended consequences that will ultimately hurt patients, as further described in this letter. IMS is the world's leading provider of information, research and analysis to the health care industry (see Attachment A for more information). With over fifty years in this business, IMS is familiar with the sensitive nature of collection and use of health information and has operated with long-standing and extensive practices to both (i) protect the privacy of individual patients, and (ii) preserve the confidentiality of the information we collect. With significant business operations throughout the world, IMS has addressed the requirements of country-specific data protection laws for many years, including the EU data protection directive, and the HIPAA regulations. In addition, IMS remains attuned to its obligation relating to the responsible handling and use of information relating to physicians in their professional capacity. IMS has worked closely with the American Medical Association and other stakeholders for many years to strike an appropriate balance between information access and reasonable limits on the use and disclosure of information relating to physicians.

IMS is strongly opposed to HB 1346 because the potential harm outweighs the potential good, for example:

- Increased Cost of Healthcare. Restrictions on access to prescription data lead to inefficient distribution of drug samples and other research, commercial and educational activities leading to increased prescriptions costs.
- Creates New "Rights" in U.S. HB 1346 could be read as asserting a right of "privacy" for businesses and individuals in their professional capacity (as compared with personal information), a matter inconsistent with state and Federal law.
- Adverse Impact on Health Care Research. Restrictions on the use of prescription information will disrupt health care research and its corresponding benefits for patients --- this research supports many beneficial applications, including: (1) setting and promoting public health policy, (2) accelerating healthcare innovation, (3) driving best clinical practice, (4) maintaining safety, (5) enabling patients to make better decisions, and (6) balancing value and cost.
- Every State That Has Considered Similar Legislation Declined to Enact It. Over the years, more than a dozen states have proposed legislation that restricts access to prescription information like HB 1346. Each of those states ultimately declined to enact the proposed legislation after carefully considering both the benefits and the drawbacks of restricting access to prescription information.
- Violates First Amendment Rights. HB 1346 will violate the first amendment of the U.S. constitution (and possibly state constitutional rights) as the disclosure of professional information is protected commercial speech.
- No Benefits to Consumers. Adoption of this bill will involve substantial burdens on individuals and significant compliance costs without clearly articulated benefits for health care consumers. To the contrary, consumers will lose access to drug samples and suffer increases in health care costs.

Attachment B contains a more detailed discussion of some of the above points. In addition, if you have further questions or would like additional information, please contact me.

Sincerely,

Sofia R. Plotzker
Corporate Attorney

splotzker@us.imshealth.com
Tel: 610-834-4512
Fax: 610-260-6640

IMS Health
660 West Germantown Pike
Plymouth Meeting, PA 19462
USA

*Attachment A***IMS HEALTH – AN OVERVIEW**

IMS HEALTH is the world's leading provider of information, research, and analysis to the health care industry, with data collection and reporting activities in over 100 countries. Founded in 1954, the company receives and processes vast quantities of health care data. In the United States alone, the company collects information from tens of thousands of sources: pharmaceutical wholesalers, pharmacies, physicians, hospitals, and clinics, and processes over 72 million records each month (de-identified with respect to patient information). Customers for IMS services include government agencies (state, federal and international), companies throughout the pharmaceutical and health care industries, universities, media organizations, and others.

IMS HEALTH's business includes tracking patterns of disease and treatment, outcomes, and the prescriptions for and sales of pharmaceutical products. Almost all of the company's business is based on the receipt and analysis of de-identified data. Using this data, we are able to assist the medical, scientific, pharmaceutical and health care management communities in conducting outcomes research, implementing best practices, and applying health economic analyses. The company's databases of patient de-identified prescription drug transactions are essential to effective implementation of prescription drug recall programs, performance of pharmaceutical market studies, efficient pharmaceutical sales and marketing resource allocation, and assessment of drug utilization patterns (e.g., on- and off-label uses and regional variations in physician prescribing behavior). More information regarding IMS HEALTH may be found at our company's website at www.imshealth.com.

Attachment B**DETAILED DISCUSSION OF DRAWBACKS OF HB 1346****I. INCREASED COST OF HEALTH CARE.**

Restricting access to prescriber-identifiable information will lead to increased health care costs. Prescriber-identifiable data is a key component of keeping drug costs in check for governmental payors. Currently, IMS data helps organizations such as the National Institute for Healthcare Management Foundation examine the relationship between higher drug costs and the federal laws that protect the pharmaceutical industry from competition. IMS also provides sales information for brand and generic products highlighting drugs going off patent, generic drug market share analysis and the average generic price compared to the brand. In addition, IMS data helps states verify and collect rebates from pharmaceutical manufacturers.

The long term cost increase will also be felt in the form of higher drug prices. There is an intuitive argument that limiting accessibility to prescriber-identifiable data will curb the pharmaceutical industry's high marketing costs. However, pharmaceutical companies marketed to physicians long before prescriber-identifiable information was available for purchase. It is doubtful that restricting access to this type of information will stop or even reduce pharmaceutical marketing to physicians. The more likely scenario is that marketing costs will increase because marketing strategies will be less efficient.

Currently pharmaceutical companies target physicians based on their prescribing habits. A representative ensures that he calls upon the high-volume prescribers in his area. He does not waste time calling upon low or no-volume prescribers. Without the prescriber-identifiable data, however, the representative will need to call on all prescribers in his area, on the chance that each individual prescriber might be a high-volume customer. As a result, representatives will make more visits to and spend more time in physician offices. Because of the increased number of office visits, more representatives will be needed to cover an area and marketing costs will increase.

The pharmaceutical industry also uses prescriber-identifiable data to target physicians for sample products. A representative will offer free samples to a physician who prescribes a high volume of a certain product. The representative knows that those samples will be used, because he knows that the physician routinely prescribes the particular product to his patients. Without prescriber-identifiable data, however, the representative won't know whether the samples will be used and will offer samples to all potential customers. Physicians will most likely accept the free samples in the interest of helping the few patients they encounter who would benefit from the drug. As a result, an abundance of samples will end up in the supply closets of low-volume prescribers. Again, the marketing expense goes up because of the excess of unused samples.

II. CREATES NEW "RIGHTS" IN U.S.

The Supreme Court has recognized a constitutional right to privacy in several landmark cases such as Omstead v. United States, 277 U.S. 438 (1928), Roe v. Wade, 410 U.S. 113 (1973), Whalen v. Roe, 429 U.S. 589 (1977), and Griswold v. Connecticut, 381 U.S. 479 (1965). These cases derive a privacy interest from the penumbra of rights enumerated in the 1st, 4th, 5th, 9th, and 14th Amendments to the U.S. Constitution. The Supreme Court has set out two distinct privacy interests under the constitution: and *individual* interest in avoiding disclosure of *personal* matters, and an interest in independence in making certain kinds of important decisions. In the absence of these interests, any limitation on speech (on the basis of a privacy right) will generally be found to violate the 1st Amendment right to free speech. In fact, there has been no recognition of a privacy interest in *professional* or *practice* information. As a matter of first impression, HB 1346 sets a dangerous precedent in restricting access to this information. If practitioners begin to assert privacy interests in their professional information, then a tension will develop between the need for patients to make informed decisions when selecting health care practitioners (and the availability of information to support those decisions), and the ability of practitioners to block patient access to information regarding their medical practice.

In addition to a review of case law and regulations, health privacy legislation introduced in Congress over the last several years has avoided any restrictions on "provider" or physician information from health care records.

Examples of Federal legislation include: Senator Jefford's "Health Care Personal Information Nondisclosure Act" (S. 578), Senator Bennett's Medical Information Protection Act" (S. 881), and the "Medical Information Privacy and Security Act" introduced in the Senate as S. 573 by Senator Leahy (Chair of the Senate Democratic Privacy Task Force) and in the House as H.R. 1057 by Rep. Ed Markey (Co-Chair of the Congressional Privacy Caucus).

An individual prescription certainly does not constitute personal information about the physician or practitioner who wrote it. This is in sharp contrast to the patient information contained on a prescription which is personal and should be protected (IMS only uses anonymized patient data). While prescription information is revealing with regard to the patient – the nature of an illness or condition, for instance, and perhaps its severity – it discloses little or nothing about the physician as an individual. Indeed, a prescription is not normally treated as personal information about himself or herself by the prescribing physician. The patient is not enjoined to secrecy, remaining entirely free to show it to anyone at will or to leave it unattended in a public place.

III. ADVERSE IMPACT ON HEALTH CARE RESEARCH.

Using information obtained from pharmacies, IMS is able to assist the medical, scientific, government, pharmaceutical and health care management communities in conducting outcomes research, implementing best practice, and applying health economic analyses. The company's databases of prescription drug transactions are essential to:

- effective implementation of prescription drug recall programs,
- performance of pharmaceutical market studies,
- efficient use and allocation of resources, and
- assessment of drug utilization patterns (e.g., on and off label uses and regional variation in physician prescribing behavior).

IMS customers include the U.S. Food & Drug Administration, the Department of Defense, the Centers for Disease Control and Prevention, and other government agencies. IMS data is used by the U.S. Department of Labor to calculate the Consumer Price Index and the Producer Price Index. IMS data has been used in connection with the resolution of dozens of antitrust cases, including In re Brand Name Prescription Drug Litigation (Federal District Court, Northern District, Illinois). More recently, IMS has worked with the Attorney General offices of a dozen states in connection with their investigation of illegal prescribing practices for Oxycontin.

In addition, IMS data is used to conduct research and analyses on important health issues, such as the over-prescribing of antibiotics. IMS also remains an important source of information for researchers in academia. Here are some examples of recent studies that have used IMS data:

- **Asthma in Low Income Areas**

A study in New York examined physician-prescribing patterns in underserved urban areas to determine patterns of treatment of patients with asthma. Substantial evidence existed that asthma controller medications were underutilized, which reflected issues in both physician education and public perceptions. Feedback was provided to physicians regarding the results of the study to engage them in implementing appropriate solutions.

- **Antidepressant Use in Adolescent Patients**

In March of 2004, the FDA released new guidelines and warnings on the prescription of antidepressant medications for young patients due to the possible suicidal effects of the medication. Many studies were named as sources examined by the FDA. A study conducted by Mark Olfson, MD, MPH of Columbia University, used prescriber-identifiable data for antidepressant medication, national suicide mortality rates and regional data on physicians to examine the correlation between antidepressants and suicide.

- **Breast Cancer Study**

A study released in February 2004 linking breast cancer to the use of antibiotics gained front-page news coverage and may change the way doctors treat women with antibiotics. The study, which used prescriber-identifiable data, linked the risks of breast cancer to the number of antibiotic prescriptions filled. The research was conducted by doctors at the Group Health Cooperative and sponsored by the National Cancer Institute.

- **Diabetes & Coronary Heart Disease**

A study to determine the use and effects of statin drugs among diabetes patients with coronary heart disease was conducted by the University of Glasgow. The study relied on prescriber-identifiable data to determine that these particular patients' cholesterol levels do not respond well to statin drugs. The study also found that these patients were being under treated for their cholesterol.

- **Medication Use by Children Diagnosed with ADHD**

A study to examine the prescribing trends of Ritalin, amphetamines, and other drugs for children diagnosed with ADHD. The study, conducted by the University of British Columbia, relied on prescription level data from the United States, Canada and the United Kingdom. Among other things, the study showed a significant disparity by socio-demographic alignment, with higher use found in lower-income regions. Also, prescriptions dropped off significantly during the summer months, indicating children were given a "drug holiday" when they were not in school.

IV. VIOLATES FIRST AMENDMENT RIGHTS.

In 1976, the Supreme Court in U.S. v. Miller held there could be no reasonable expectation of privacy for information passing into the public domain in the course of commerce. In the absence of a constitutionally recognized right of privacy, legislative, administrative or court-led attempts to restrict the disclosure of information found in commerce, such as prescription information, could be held unconstitutional as improperly restricting protected commercial speech.

V. NO BENEFITS TO CONSUMERS.

State legislators and the Congress have recognized a compelling state interest must exist to restrict use, access and disclosure to information in the private sector. Legislative action restricting the use, access or disclosure of information in the private sector has focused on consumer safety, privacy of personal information, national and homeland security, protection of minors, and criminal investigations. HB 1346 restricts the use, access and disclosure of commercial information --- information exchanged between businesses/professionals --- without any of the foregoing benefits or protections described above. Health care consumers do not benefit from these restrictions. In fact, the access, use and disclosure of patient de-identified health care information, including physician prescribing information, provides a range of clear benefits for consumers as further described above. If HB 1346 or any similar restriction is adopted, consumers will lose access to these benefits.

Moreover, one of the hottest health care initiatives at the federal level is a push towards greater transparency of current health care practices. In order to achieve such greater transparency, the public needs to be able to track and identify the quality of care and efficiency of practitioners. Restricting access to prescriber information would reduce the benefits consumers have recently received from gaining access to information about quality, price and practices within the health care market.

*Attachment C***USE OF IMS INFORMATION BY ACADEMIC INSTITUTIONS,
GOVERNMENT AGENCIES AND NON-PROFIT ORGANIZATIONS**

IMS has worked with researchers and other representatives from the following organizations in connection with the use of IMS data:

American Red Cross	Attorney General offices (over 20 states)
Centers for Disease Control	Centers for Medicaid and Medicare Services
Cornell University	Drug Enforcement Agency
Emory University	Federal Trade Commission
Food and Drug Administration	Fordham University
General Accounting Office	Harvard University
Institute of Medicine of the National Academy of Sciences	Jacksonville University
Kaiser Family Foundation	Mayo Clinic
Memorial Sloan-Kettering	MIT Sloan School of Management
New York University	Northwestern University
Penn State University	Rutgers University
Southern Illinois University	St. Joe's University
Stanford	State University of New York, Stony Brook
Tufts University	Tulane University
U.S. Congress	U.S. Department of Justice
U.S. Department of Labor	University of Arizona
University of California	University of Chicago
University of Connecticut	University of Maryland
University of North Carolina	University of Pennsylvania
University of Pittsburgh	University of Rochester
University of Wisconsin	Vanderbilt University
Virginia Commonwealth University	Wake Forest University
World Bank	Yale School of Management

Note: Each of these organizations benefited, directly or indirectly, from the use of prescribing data to support studies, research and other applications.

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1346

BILL TITLE: requiring certain persons to keep the contents of prescriptions confidential.
DATE: February 7, 2006
LOB ROOM: 205

Amendments:

Sponsor: Rep. Rosenwald & Hogancamp OLS Document #: 2006 0728h
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A ITL, Interim Study (Please circle one.)

Moved by Rep. Rosenwald

Seconded by Rep. Hogancamp

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A ITL, Interim Study (Please circle one.)

Moved by Rep. Rosenwald

Seconded by Rep. Hogancamp

Vote: 13-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 13-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carolyn A. Brown, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 1346

BILL TITLE: requiring certain persons to keep the contents of prescriptions confidential.

DATE: 2-7-06

LOB ROOM:

Amendments:

Sponsor: Rep.

OLS Document #: 2006-0738h ~~0684h~~

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: (OTP) OTP/A, ITL, Interim Study (Please circle one.) 2006-0738h ~~0684h~~

Moved by Rep. Rosenwold

Seconded by Rep. Hogan Camp

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. Rosenwold

Seconded by Rep. Hogan Camp

Vote: 13-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carolyn A. Brown, Clerk

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB 1346 Title: requiring certain persons to keep prescriptions
Confidential

PH Date: 1/24/06 Exec Session Date: 2/7/06

Motion: OTP Amendment #: 2006-0738h
~~0684h~~

MEMBER	YEAS	NAYS
Batula, Peter L, Chairman		
MacKay, James R, V Chairman	✓	
Chabot, Robert F		
Katsakiores, Phyllis M		
Barry, J Gail		
Brown, Carolyn A, Clerk	✓	
McMahon, Charles E		
Weldy, Norman E		
Hess, David W		
Emerson, Susan	✓	
Hogancamp, Deborah J	✓	
Mason, April H	✓	
Chaplin, Duncan D	✓	
French, Barbara C	✓	
Donovan, Thomas E	✓	
Sokol, Hilda W	✓	
Miller, Joseph M	✓	
Schulze, Joan H	✓	
Jillette, Arthur G	✓	
Rosenwald, Cindy	✓	
Filton, Joy K		
TOTAL VOTE:		
Printed: 1/19/2006		

Rosenwald

YEAS 13

NAYS 0

OFFICE OF THE HOUSE CLERK

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

Bill #: HB 1346 Title: requiring Certain persons to keep prescriptions Confidential
 PH Date: 1 1 24 06 Exec Session Date: 2 17 06

Motion: OTP/A Amendment #: _____

MEMBER	YEAS	NAYS
<u>Rosenwold</u>	<u>13</u>	<u>0</u>
Batula, Peter L, Chairman		
MacKay, James R, V Chairman	✓	
Chabot, Robert F		
Katsakiores, Phyllis M		
Barry, J Gail		
Brown, Carolyn A, Clerk	✓	
McMahon, Charles E		
Weldy, Norman E		
Hess, David W		
Emerson, Susan	✓	
Hogancamp, Deborah J	✓	
Mason, April H	✓	
Chaplin, Duncan D	✓	
French, Barbara C	✓	
Donovan, Thomas E	✓	
Sokol, Hilda W	✓	
Miller, Joseph M	✓	
Schulze, Joan H	✓	
Jillette, Arthur G	✓	
Rosenwald, Cindy	✓	
Tilton, Joy K		
TOTAL VOTE:		

Rep. Rosenwald, Hills. 22
Rep. Hogancamp, Ches. 4
February 2, 2006
2006-0738h
01/10

Amendment to HB 1346

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Section; Pharmacists and Pharmacies; Prescription Information to be Kept Confidential.

4 Amend RSA 318 by inserting after section 47-e the following new section:

5 318:47-f Prescription Information to be Kept Confidential. Records relative to prescription
6 information containing identifiable patient and prescriber data shall not be used, transferred,
7 licensed, or sold by any pharmacy benefits manager, insurance company, electronic transmission
8 intermediary, retail, mail order, or Internet pharmacy, or other similar entity, for any commercial
9 purpose, except for the limited purposes of pharmacy reimbursement, care management, and
10 utilization review by the patient's insurance provider or the provider's agent. Commercial purpose
11 includes, but is not limited to, advertising, marketing, promotion, or any other purpose that could be
12 used to influence sales or market share of a pharmaceutical product, influence or evaluate the
13 prescribing behavior of an individual health care professional, except for evaluation by an insurance
14 provider or the provider's agent for the purpose of compliance with the provider's formulary, or
15 evaluate the effectiveness of a professional detailing sales force. In addition to other appropriate
16 remedies under this chapter, a violation of this section is an unfair or deceptive act or practice within
17 the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the
18 provisions of this section.

19 2 New Paragraph; Controlled Drug Act; Prescription Information to be Kept Confidential.

20 Amend RSA 318-B:12 by inserting after paragraph III the following new paragraph:

21 IV. Records relative to prescription information containing identifiable patient and
22 prescriber data shall not be used, transferred, licensed, or sold by any pharmacy benefits manager,
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COMMITTEE REPORT

COMMITTEE: **Health, Human Services and Elderly Affairs**
BILL NUMBER: **HB 1346**
TITLE: **requiring certain persons to keep the contents of prescriptions confidential.**
DATE: **Feb. 9, 2006**

CONSENT CALENDAR YES NO

- OUGHT TO PASS
 OUGHT TO PASS WITH AMENDMENT
 INEXPEDIENT TO LEGISLATE
 REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT (Include Committee Vote)

This bill safeguards the privacy of both patients and physicians by preventing the sale of their identity for use by pharmacies and drug companies to promote specific medications or monitor the effectiveness of sales and marketing efforts. The bill makes the sale of such private information a violation of the Unfair Trade Practice Act., While HIPAA is supposed to protect patient identity from being bought and sold, it is not always effective. A major drug company is under investigation for paying pharmacists and employees of physician offices to identify patients whose medications could be switched to a competing brand. In New Hampshire, the Pharmacy Board receives complaints from individuals who get coupons for other drug brands in the mail. Currently, drug companies buy the prescribing records of health care providers who prescribe medications. This is done without the provider's permission, and the Committee believes it is an unwarranted invasion of privacy that eventually leads to higher drug utilization costs. The bill was amended to define carefully the prohibited uses of identity data. It also protects legitimate uses of identity such as insurance reimbursement, private insurance and Medicaid formulary compliance, fraud investigation, and academic research. Significantly, the legislation does not prohibit the collection, sale, or use of prescriber identity in the aggregate (e.g. the number of prescriptions for a specific brand by all the psychiatrists in Manchester). Therefore, the Committee believes that a drug company's commercial interest in promoting its products and evaluating its sales force is adequately protected. In restricting the commercial use of identity data, doctors will be allowed to make prescribing decisions based on therapeutic value without influence from drug reps. This can lead to slower increases in cost for Medicaid and health insurance premiums paid by businesses and individuals. The Medical Society, DHHS, and the AG's office all support the legislation.

Vote 13-0.

Rep. Cindy Rosenwald
FOR THE COMMITTEE

CONSENT CALENDAR

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Health, Human Services and Elderly Affairs

HB 1346, requiring certain persons to keep the contents of prescriptions confidential. **OUGHT TO PASS WITH AMENDMENT**

Rep. Cindy Rosenwald for Health, Human Services and Elderly Affairs: This bill safeguards the privacy of both patients and physicians by preventing the sale of their identity for use by pharmacies and drug companies to promote specific medications or monitor the effectiveness of sales and marketing efforts. The bill makes the sale of such private information a violation of the Unfair Trade Practice Act., While HIPAA is supposed to protect patient identity from being bought and sold, it is not always effective. A major drug company is under investigation for paying pharmacists and employees of physician offices to identify patients whose medications could be switched to a competing brand. In New Hampshire, the Pharmacy Board receives complaints from individuals who get coupons for other drug brands in the mail. Currently, drug companies buy the prescribing records of health care providers who prescribe medications. This is done without the provider's permission, and the Committee believes it is an unwarranted invasion of privacy that eventually leads to higher drug utilization costs. The bill was amended to define carefully the prohibited uses of identity data. It also protects legitimate uses of identity such as insurance reimbursement, private insurance and Medicaid formulary compliance, fraud investigation, and academic research. Significantly, the legislation does not prohibit the collection, sale, or use of prescriber identity in the aggregate (e.g. the number of prescriptions for a specific brand by all the psychiatrists in Manchester). Therefore, the Committee believes that a drug company's commercial interest in promoting its products and evaluating its sales force is adequately protected. In restricting the commercial use of identity data, doctors will be allowed to make prescribing decisions based on therapeutic value without influence from drug reps. This can lead to slower increases in cost for Medicaid and health insurance premiums paid by businesses and individuals. The Medical Society, DHHS, and the AG's office all support the legislation. **Vote 13-0.**

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HB 1346—Cindy Rosenwald

Blurb

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Cindy Rosenwald

P.L.B.

Rep. Rosenwald, Hills. 22
Rep. Hogancamp, Ches. 4
February 2, 2006
2006-0738h
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