

SENATE BILL No. 229

By Committee on Public Health and Welfare

1-30

9 AN ACT concerning prescription drugs; creating the prescription con-
10 fidentiality act.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Records relative to prescription information containing
14 patient-identifiable and prescriber-identifiable data shall not be licensed,
15 transferred, used or sold by any pharmacy benefits manager, insurance
16 company, electronic transmission intermediary, retail, mail order or in-
17 ternet pharmacy or other similar entity, for any commercial purpose, ex-
18 cept for the limited purposes of pharmacy reimbursement; formulary
19 compliance; care management; utilization review by a health care pro-
20 vider, the patient's insurance provider or the agent of either; health care
21 research; or as otherwise provided by law.

22 (b) Commercial purpose includes, but is not limited to, advertising,
23 marketing, promotion, or any activity that could be used to influence sales
24 or market share of a pharmaceutical product, influence or evaluate the
25 prescribing behavior of an individual health care professional, or evaluate
26 the effectiveness of a professional pharmaceutical detailing sales force.

27 (c) Nothing in this section shall prohibit the dispensing of prescrip-
28 tion medications to a patient or to the patient's authorized representative;
29 the transmission of prescription information between an authorized pre-
30 scriber and a licensed pharmacy; the transfer of prescription information
31 between licensed pharmacies; the transfer of prescription records that
32 may occur in the event a pharmacy ownership is changed or transferred;
33 care management educational communications provided to a patient
34 about the patient's health condition, adherence to a prescribed course of
35 therapy or other information about the drug being dispensed, treatment
36 options or clinical trials. Nothing in this section shall prohibit the collec-
37 tion, use, transfer or sale of patient and prescriber de-identified data by
38 zip code, geographic region or medical specialty for commercial purposes.

39 (d) In addition to other appropriate remedies under this act, a vio-
40 lation of this section is an unfair or deceptive act or practice within the
41 meaning of K.S.A. 50-626, and amendments thereto. Any right or remedy
42 set forth in the Kansas consumer protection act, K.S.A. 50-623, et seq.,
43 and amendments thereto, may be used to enforce the provisions of this

1 section. Further, a violation of this section is a violation of the pharmacy
2 act of the state of Kansas and K.S.A. 65-1658, and amendments thereto,
3 may be used to enforce the provisions of this section.

4 Sec. 2. (a) Following the close of each calendar year, any clearing-
5 house that provides information to Kansas residents about pharmaceutical
6 manufacturers' patient assistance programs shall, to the extent that the
7 clearinghouse collects such information, provide aggregate information
8 to the secretary of the department of social and rehabilitation services
9 relative to either:

10 (1) The number of people in Kansas who may qualify for any man-
11 ufacturer or government program during the calendar year; or

12 (2) the number of patients served during the calendar year.

13 (b) An individual company may provide additional information about
14 the individual company's patient assistance program; however, the sec-
15 retary shall combine all information from all sources, including individual
16 companies and the clearinghouse, and shall report only aggregate infor-
17 mation to the public.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.