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Chapter 1245

S.B. No. 2423

AN ACT

1  
2 relating to the transfer or sale of patient information or  
3 prescription drug history by discount health care programs;  
4 providing penalties.

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

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

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

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

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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.

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David Newkum  
President of the Senate

Jim Strawn  
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.

Patricia Galloway  
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.

Robert Haney  
Chief Clerk of the House

Approved:

19 JUN '09  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2PM O'CLOCK  
JUN 19 2009

Colby Hunter III