HOUSE RESEARCH

Bill Summary

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Version: First Engrossment

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Subject: Limiting Use of Prescription Information for Marketing Pharmaceuticals

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Overview

This bill would prohibit individually identifying information contained in a prescription record from being used in marketing pharmaceutical products.

Section

1 **Rules.** Amends § 151.50. Makes a conforming change.

2 **Prescription record privacy.** Adds § 151.60.

Subd. 1. Intent; purpose. Describes the intent of this legislation.

Subd. 2. Definitions. Defines key terms used in this section, including, but not limited to, the following: "individual identifying information," "marketing," "nonmarketing purposes," and "regulated record."

Subd. 3. Privacy provisions. (a) Prohibits the disclosure or use of individually identifying information in a prescription record for marketing purposes.

(b) Permits transfer of a prescription record provided there is satisfactory assurance in writing that the recipient will safeguard the record from being disclosed or used for any prohibited marketing purpose.

(c) Permits prescription records with individually identifying information to be disclosed, sold, transferred, exchanged or used for nonmarketing purposes, as defined in subdivision 2.

(d) Provides that information in a prescription record may be used for marketing purposes, provided:

- the information is aggregate data;

- the information does not include individually identifying information; and
- the information is not used to obtain individually identifying information.

(e) Provides that this section does not prevent anyone from disclosing records to the identified individual as long as the record does not include protected information on another person.

Subd. 4. Enforcement. (a) Gives the Board of Pharmacy the authority to assess administrative penalties for violations of this section. Provides a range of $10,000 per violation to $50,000 per violation. States that each disclosure of a regulated record constitutes a violation.

(b) Requires the Attorney General to enforce payment of penalties assessed under this subdivision.

Subd. 5. Consumer fraud. Classifies a violation of this section as an unfair or deceptive act in trade or commerce and as an unfair method of competition, in addition to any other remedy provided in law. Permits the section to be enforced under Minnesota Statutes, chapter 325F (consumer protection statutes).

Subd. 6. No extraterritorial effect. States explicitly that this section does not regulate conduct that takes place entirely outside of this state.

Subd. 7. No effect on truthful speech of doctors or patients. Provides that this section does not regulate the content, time, place or manner of any discussion between a practitioner and patient or a practitioner and a representative of a prescription drug manufacturer.

Subd. 8. Report. Requires pharmaceutical manufacturers, wholesale drug distributors, and pharmacies to report to the Board of Pharmacy that they have complied with and will continue to comply with this section. Requires this statement to be signed by the owner, president or CEO of the reporting company.

Subd. 9. Severability. Provides a severability clause for this section.