

**§1711-E. Confidentiality of prescription drug information**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carrier" has the same meaning as in Title 24-A, section 4301-A, subsection 3. [PL 2005, c. 589, §1 (NEW).]

A-1. "Administrator" has the same meaning as in Title 24-A, section 1901, subsection 1. [PL 2007, c. 460, §1 (NEW).]

A-2. "Detailing" means one-to-one contact with a prescriber or employees or agents of a prescriber for the purpose of increasing or reinforcing the prescribing of a certain drug by the prescriber. [PL 2007, c. 460, §1 (NEW).]

B. "Electronic transmission intermediary" means an entity that provides the infrastructure that connects the computer systems or other electronic devices used by and between health care practitioners, prescribers, pharmacies, health care facilities, pharmacy benefit managers, carriers and administrators and agents and contractors of those persons and entities in order to facilitate the secure transmission of an individual's prescription drug order, refill, authorization request, claim, payment or other prescription drug information. [PL 2007, c. 460, §1 (AMD).]

C. "Health care facility" has the same meanings as in section 1711-C, subsection 1, paragraph D. [PL 2005, c. 589, §1 (NEW).]

D. "Health care practitioner" has the same meanings as in section 1711-C, subsection 1, paragraph F. [PL 2005, c. 589, §1 (NEW).]

E. "Health plan" means a health plan providing prescription drug coverage as authorized under the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003, Public Law 108-173. [PL 2005, c. 589, §1 (NEW).]

F. "Individual" means a natural person who is the subject of prescription drug information. [PL 2005, c. 589, §1 (NEW).]

F-1. "Marketing" means any of the following activities undertaken or materials or products made available to prescribers or to their employees or agents related to the transfer of prescription drugs from the producer or seller to the consumer or buyer:

- (1) Advertising, publicizing, promoting or selling a prescription drug;
- (2) Activities undertaken for the purpose of influencing the market share of a prescription drug or the prescribing patterns of a prescriber, a detailing visit or a personal appearance;
- (3) Activities undertaken to evaluate or improve the effectiveness of a professional detailing sales force; or
- (4) A brochure, media advertisement or announcement, poster or free sample of a prescription drug.

"Marketing" does not include pharmacy reimbursement, formulary compliance, pharmacy file transfers in response to a patient request or as a result of the sale or purchase of a pharmacy, patient care management, utilization review by a health care provider or agent of a health care provider or the patient's health plan or an agent of the patient's health plan, and health care research. [PL 2007, c. 460, §1 (NEW).]

F-2. "Pharmacy" means a mail order prescription pharmacy as defined in Title 32, section 13702-A, subsection 17 or a pharmacy as defined in Title 32, section 13702-A, subsection 24. [PL 2007, c. 695, Pt. C, §6 (AMD).]

G. "Pharmacy benefits manager" has the same meaning as in Title 24-A, section 4347, subsection 17. [PL 2019, c. 469, §1 (AMD); PL 2019, c. 469, §9 (AFF).]

G-1. "Prescriber" means a person who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice. [PL 2007, c. 460, §1 (NEW).]

H. "Prescription drug information" means information concerning prescription drugs as defined in Title 32, section 13702-A, subsection 30 and includes prescription drug orders as defined in Title 32, section 13702-A, subsection 31. [PL 2007, c. 695, Pt. C, §7 (AMD).]

I. "Prescription drug information intermediary" means a person or entity that communicates, facilitates or participates in the exchange of prescription drug information regarding an individual or a prescriber. "Prescription drug information intermediary" includes, but is not limited to, a pharmacy benefits manager, a health plan, an administrator and an electronic transmission intermediary and any person or entity employed by or contracted to provide services to that entity. [PL 2007, c. 460, §1 (AMD).]

[PL 2019, c. 469, §1 (AMD); PL 2019, c. 469, §9 (AFF).]

**1-A. Findings.**

[PL 2011, c. 494, §1 (RP).]

**1-B. Purposes.**

[PL 2011, c. 494, §2 (RP).]

**2. Confidentiality of prescription drug information that identifies the individual.** A carrier or prescription drug information intermediary may not license, use, sell, transfer or exchange for value, for any marketing purpose, prescription drug information that identifies directly or indirectly the individual who is prescribed the prescription drug.

[PL 2011, c. 494, §3 (AMD).]

**2-A. Confidentiality of prescription drug information that identifies the prescriber.**

[PL 2011, c. 494, §4 (RP).]

**3. Enforcement.** A violation of subsection 2 is a violation of the Maine Unfair Trade Practices Act.

[PL 2011, c. 494, §5 (AMD).]

**4. Confidentiality protection procedures.**

[PL 2011, c. 494, §6 (RP).]

**5. Rules.** The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 90, Pt. J, §10 (AMD).]

**SECTION HISTORY**

PL 2005, c. 589, §1 (NEW). PL 2007, c. 460, §1 (AMD). PL 2007, c. 695, Pt. C, §§6, 7 (AMD). PL 2011, c. 90, Pt. J, §10 (AMD). PL 2011, c. 443, §1 (AMD). PL 2011, c. 461, §1 (AMD). PL 2011, c. 494, §§1-6 (AMD). PL 2019, c. 469, §1 (AMD). PL 2019, c. 469, §9 (AFF).

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