

# HOUSE BILL REPORT

## HB 2664

---

**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to prohibiting the sale and use of prescriber-identifiable prescription data for marketing or promotional purposes.

**Brief Description:** Prohibiting the sale and use of prescriber-identifiable prescription data for marketing or promotional purposes.

**Sponsors:** Representatives Pedersen, Cody, Green, Morrell, Seaquist, Conway, Hasegawa, Hudgins, Upthegrove, Chase, Liias, Nelson, Loomis, McIntire, Barlow, Schual-Berke and VanDeWege.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/21/08, 1/28/08 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits the sale or use of prescriber's identifiable prescription data for markets or promotional purposes.

---

### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Condotta and DeBolt.

**Staff:** Dave Knutson (786-7146).

**Background:**

Health care information companies purchase electronic records of prescriptions from pharmacies and other sources and link them with information about doctors that is licensed from the Physician Masterfile of the American Medical Association (AMA). The Physician

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Masterfile contains information on virtually every physician in the United States, including physicians who do not belong to the AMA. This information can then be sold to pharmaceutical companies who may use it to target individual physicians using their personal prescribing patterns. In 2005 the AMA received \$44.5 million from sales of physician prescription information from the Physician Masterfile. The AMA recently began a prescribing data restriction program which allows physicians to prevent their prescribing data from being released to pharmaceutical companies through an opt-out process.

---

**Summary of Substitute Bill:**

No person shall knowingly sell, disclose, or use regulated records that include prescriber identifiable information to market or promote a prescription drug. A pharmaceutical marketer that violates this prohibition is subject to a fine of up to \$50,000 per violation. A violation of this prohibition is also considered an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act. Records held by an agency administering a state purchased health care program that contain prescription information containing prescriber-identifiable data that can identify a prescriber, are exempt from disclosure under the Public Records Act.

**Substitute Bill Compared to Original Bill:**

The reference to prohibited acts by a pharmaceutical marketer is deleted and replaced with a prohibition against any person who sells, discloses, or uses regulated records with prescriber identifiable information.

---

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) Pharmaceutical marketers use prescriber identifiable information to tailor their sales activity to specific prescribers. This activity interferes with the patient-prescriber relationship. It also adds costs to the health care system by increasing prescriptions for newer, more expensive drugs.

(Opposed) If prescriber identifiable information cannot be collected, doctors who specialize in certain conditions may not have access to the most current information. This type of legislation has been found to violate the U.S. Constitution by federal courts. This legislation is also unconstitutional.

**Persons Testifying:**

(In support) Lonnie Johnson Brown and Ruth Sheurar, Healthy Washington; Cynthia Markus, Washington State Medical Association; and Jeff Huebner, Coalition for Prescribing Integrity. (Opposed) Jeff Gombosky, Amgen; Amber Carter, Association of Washington Business; Mike Ryherd and Robert Hunkler, IMS Health Incorporated; and Cliff Webster, Pharmaceutical Research and Manufacturers of America.

**Persons Signed In To Testify But Not Testifying:** (In support) Eleanor Owen, National Alliance on Mental Illness, Washington and Washington Health Security Coalition.

(With concerns) Charlie Brown, Medco Health Solutions.