

109TH CONGRESS
2^D SESSION

H. R. 5945

To amend title XI of the Social Security Act to protect the privacy of drug prescriber information.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. PALLONE (for himself and Mr. STARK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XI of the Social Security Act to protect the privacy of drug prescriber information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prescription Privacy
5 Protection Act of 2006”.

6 **SEC. 2. PROTECTION OF PRIVACY OF DRUG PRESCRIBER**
7 **INFORMATION.**

8 (a) IN GENERAL.—Title XI of the Social Security Act
9 is amended by adding at the end the following new section:

1 “PRIVACY OF PRESCRIBER INFORMATION

2 “SEC. 1180. (a) IN GENERAL.—A drug manufac-
3 turer (as defined for purposes of section 1927) may not,
4 directly or indirectly, use prescriber identifiable health in-
5 formation for commercial purposes.

6 “(b) PENALTY.—Any manufacturer that violates sub-
7 section (a) shall be fined not more than \$50,000, or im-
8 prisoned not more than one year, or both, for each such
9 violation.

10 “(c) DEFINITIONS.—For purposes of this section:

11 “(1) COMMERCIAL PURPOSES.—

12 “(A) IN GENERAL.—The term ‘commercial
13 purposes’ includes advertising, marketing, pro-
14 motion, or any activity that could be used to in-
15 fluence sales or market share of a pharma-
16 ceutical product or to influence or evaluate the
17 prescribing behavior of a prescriber.

18 “(B) EXCLUSION.—Such term does not in-
19 clude—

20 “(i) pharmacy reimbursement;

21 “(ii) formulary compliance;

22 “(iii) care management;

23 “(iv) utilization review by a provider
24 or supplier, an individual’s insurance pro-
25 vider, or the agent of either; or

1 “(v) health care research, including
2 clinical research and health services re-
3 search.

4 “(2) PRESCRIBER.—The term ‘prescriber’
5 means a physician or other health care practitioner
6 that is authorized under State law to prescribe a
7 prescription drug or biological.

8 “(3) PRESCRIBER IDENTIFIABLE HEALTH IN-
9 FORMATION.—The term ‘prescriber identifiable
10 health information’ means health information relat-
11 ing to a prescription drug or biological which—

12 “(A) identifies the prescriber of the drug
13 or biological; or

14 “(B) with respect to which there is a rea-
15 sonable basis to believe that the information
16 can be used to identify such prescriber.

17 “(4) PRESCRIPTION DRUG OR BIOLOGICAL.—
18 The term ‘prescription drug or biological’ means a
19 drug or biological that may be dispensed only upon
20 prescription.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on a date, specified by the
23 Secretary of Health and Human Services, that is not later
24 than one year after the date of the enactment of this Act.

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