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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
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COMMITTEE AMENDMENT "A" to S.P. 771, L.D. 1992, Bill, "An Act To Protect the Confidentiality of Prescription Information"

Amend the bill by striking out the title and substituting the following:

'**An Act Regarding Prescription Drug Information Intermediaries**'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'**Sec. 1. 22 MRSA §1711-E** is enacted to read:

§1711-E. Requirements for prescription drug information intermediaries

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.

B. "Electronic transmission intermediary" means an entity that provides the infrastructure that connects the computer systems or other electronic devices used by health care practitioners, health care facilities and pharmacy benefit managers to carriers and agents and contractors of those carriers and agents in order to facilitate the secure transmission of an individual's prescription drug order, refill, authorization request, claim, payment or other prescription drug information.

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C. "Health care facility" has the same meanings as in section 1711-C, subsection 1, paragraph D.

D. "Health care practitioner" has the same meanings as in section 1711-C, subsection 1, paragraph F.

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.

F. "Individual" means a natural person who is the subject of prescription drug information.

G. "Pharmacy benefits manager" has the same meaning as in section 2699, subsection 1, paragraph F.

H. "Prescription drug information" means information concerning prescription drugs as defined in Title 32, section 13702, subsection 24 and includes prescription drug orders as defined in Title 32, section 13702, subsection 25.

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. "Prescription drug information intermediary" includes, but is not limited to, a pharmacy benefits manager, a health plan and an electronic transmission intermediary.

2. Confidentiality of health care information. A prescription drug information intermediary may not sell or exchange for value prescription drug information that identifies directly or indirectly the individual except if expressly permitted under section 1711-C, Title 24, Title 24-A or the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended.

3. Enforcement. A violation of this section is a violation of the Maine Unfair Trade Practices Act.

Sec. 2. 22 MRSA §2700-A, sub-§4, as enacted by PL 2005, c. 392, §1, is amended to read:

4. Fees. Beginning April 1, 2006, each manufacturer of prescription drugs that are provided to Maine residents through the MaineCare program under section 3174-G or the elderly low-cost drug program under section 254 shall pay a fee of $1,000 per calendar year to the ~~department~~ State. Fees collected under this subsection must be used to cover the cost of overseeing

implementation of this section, including but not limited to maintaining links to publicly accessible websites to which manufacturers are posting clinical trial information under subsection 3 and other relevant sites, assessing whether and the extent to which Maine residents have been harmed by the use of a particular drug and undertaking the public education initiative under subsection 5. Revenues received under this subsection must be deposited into an Other Special Revenue Funds account to be used for the purposes of this subsection.'

SUMMARY

This amendment replaces the bill. It prohibits a prescription drug information intermediary from selling or exchanging for value prescription drug information that identifies directly or indirectly an individual who is the subject of the prescription drug information. It designates a violation of this Act as a violation of the Maine Unfair Trade Practices Act. The amendment also requires drug manufacturers who pay the fee for state oversight of prescription drug and clinical trial information to pay that fee to the State. Current law requires that fee to be paid to the Department of Health and Human Services. The amendment does not change or add to the fee.