

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1679

S.P. 578

In Senate, December 21, 2011

### **An Act To Conform Maine's Prescription Drug Privacy Laws with the United States Constitution**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2011. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1711-E, sub-§1-A**, as enacted by PL 2007, c. 460, §1, is  
3 repealed.

4 **Sec. 2. 22 MRSA §1711-E, sub-§1-B**, as amended by PL 2011, c. 461, §1, is  
5 repealed.

6 **Sec. 3. 22 MRSA §1711-E, sub-§2**, as amended by PL 2007, c. 460, §1, is  
7 further amended to read:

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

13 **Sec. 4. 22 MRSA §1711-E, sub-§2-A**, as enacted by PL 2007, c. 460, §1, is  
14 repealed.

15 **Sec. 5. 22 MRSA §1711-E, sub-§3**, as amended by PL 2007, c. 460, §1, is  
16 further amended to read:

17 **3. Enforcement.** A violation of subsection 2 ~~or 2-A~~ is a violation of the Maine  
18 Unfair Trade Practices Act.

19 **Sec. 6. 22 MRSA §1711-E, sub-§4**, as enacted by PL 2007, c. 460, §1, is  
20 repealed.

21 **Sec. 7. 22 MRSA §8704, sub-§4**, as amended by PL 2007, c. 460, §2, is further  
22 amended to read:

23 **4. Rulemaking.** The board shall adopt rules necessary for the proper administration  
24 and enforcement of the requirements of this chapter ~~and to carry out the duties of the~~  
25 ~~organization under section 1711-E, subsection 4 and section 8713.~~ All rules must be  
26 adopted in accordance with Title 5, chapter 375 and unless otherwise provided are routine  
27 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

28 **Sec. 8. 22 MRSA §8704, sub-§7**, as amended by PL 2007, c. 460, §3, is further  
29 amended to read:

30 **7. Annual report.** The board shall prepare and submit an annual report on the  
31 operation of the organization and the Maine Health Data Processing Center as authorized  
32 in Title 10, section 681, including any activity contracted for by the organization or  
33 contracted services provided by the center, with resulting net earnings, to the Governor  
34 and the joint standing committee of the Legislature having jurisdiction over health and  
35 human services matters no later than February 1st of each year. The report must include  
36 an annual accounting of all revenue received and expenditures incurred in the previous  
37 year and all revenue and expenditures planned for the next year. The report must include

1 a list of persons or entities that requested data from the organization in the preceding year  
2 with a brief summary of the stated purpose of the request.

3 ~~As part of its annual report, the organization shall report on filings for confidentiality~~  
4 ~~protection under section 1711 E, subsection 4, the disclosure of the names of prescribers~~  
5 ~~who filed for confidentiality protection, funding through the assessment under section~~  
6 ~~1711 E, subsection 4, paragraph C and recommendations for legislation to improve~~  
7 ~~operation of section 1711 E, subsection 4.~~

8 **Sec. 9. 22 MRSA §8713**, as enacted by PL 2007, c. 460, §4, is repealed.

9 **SUMMARY**

10 This bill repeals provisions of Maine's laws providing confidentiality for certain  
11 prescription drug information relating to prescribers to conform state law to the United  
12 States Supreme Court decision in Sorrell v. IMS Health Inc., 131 S. Ct. 2653 (2011),  
13 which held unconstitutional similar provisions in the laws of Vermont.