


## Eavesdropping in the Exam Room: Should States Regulate Prescription Data Mining?

**Cindy Rosenwald**  
**State Representative**  
**New Hampshire**  
**August 6, 2007**



## Prescription Data Mining

- What is it?
  - Computer database technology introduced 1993
  - Tracks drug prescriptions written by individual prescribers by specific brand
  - Sold to drug companies to target marketing to doctors as individuals
- Why should states consider regulation?
  - Cost
  - Privacy
  - Health Care Quality



## Clash of Values

- Drug company goals are revenue, share, and profit
- Public policy goals are affordable, safe, high quality health care
- Information has economic value



## Rx Drug Costs Rising Dramatically

- Fastest growth among all sectors
  - Up 74% over 5 years in New Hampshire
  - Public and private spending impact
  - \$868 per capita
  - Projected 47% increase next 5 years
  - Medicaid Rx costs higher than hospitals and doctors combined, up 68% in 5 years
  - Prisoner Rx costs higher than hospitals, doctors, and diagnostics combined



## Marketing RX Drugs

- Billions spent marketing to doctors and patients
- One third of revenue spent on marketing
  - \$5 billion spent on consumer advertising
  - \$15 billion spent on free samples and marketing to doctors, \$15,000 per physician
  - 90,000 sales reps; 1 for every 5 doctors
  - Breakeven for one sales call is one new prescription
  - Data mining industry is a \$2 billion convenience to pharmaceutical industry



## Quality of Care Depends on Trust and Objectivity

- Drug companies have unauthorized access to private relationship
- Patient/Doctor relationship is complex
  - Like a drug rep listening at the door
  - Ability to influence private relationship between doctor and patient
  - Best care combines professional judgment with personal knowledge and patient's interest, not commercial interests



## Patient Identity

- Industry denies knowledge of patient identity
  - Incomplete compliance testimony
  - Direct mail advertising to patients
- Concerns about electronic vendor privacy standards
- Concerns about HIPAA



## Prescriber Data Mining Regulation

- NH law prohibits commercial use of prescriber identity
  - Allows collection, non-commercial use
  - Allows aggregate data commercial usage
  - Enjoined by federal district court decision, on appeal
- Vermont enacts opt-in, Maine enacts opt-out
- AMA has voluntary opt-out program
  - Drug companies still see prescribing records even when doctors opt out
  - AMA has multi-million \$ conflict of interest
  - 8,000 doctors (1%) have signed up
  - Majority of physicians support data mining ban



## Pharmaceutical Industry Opposition

- Contention: Physician tracking saves money
  - “Makes marketing more efficient”
  - Which doctors should get samples
- Reality: It contributes to spending growth
  - Marketing and sampling are for expensive brand name drugs, not cheaper generics
  - \$2 billion data mining cost passed on to consumers and payers
  - Practice level aggregate data is enough



## Pharmaceutical Industry Opposition

- Contention: Physician tracking improves care
  - Sales reps can teach doctors how to use drugs
  - Contributes to health research
  - Doctors are sophisticated, not subject to influence of marketing, sales reps
- Reality: Marketing does not improve care
  - Sales reps not qualified to teach doctors
  - Research not impacted by regulations
  - Studies show gifts change prescribing habits, create sense of obligation



## Pharmaceutical Industry Opposition

- Contention: Physician tracking improves safety
  - Can help with FDA programs to warn prescribers and patients of safety problems
    - Recalls
    - Black box warnings
    - Risk management / special prescribing qualifications
    - Adverse event reporting
    - Find doctors who prescribe inappropriately
  - Warnings should be targeted



## Pharmaceutical Industry Opposition

- Reality: Safety programs must—and do—cast broader net
  - FDA is silent on data mining
  - Many ways to report problems to doctors
  - Warnings must reach all potential prescribers
    - Toe nail fungus warning to psychiatrists
  - Doctors report adverse events to FDA
  - Warnings can be linked to e-prescribing
  - Better ways to monitor prescription fraud/abuse
  - Safety efforts not prohibited by legislation



## What Does the Future Hold?

- More data will be available electronically
- Data has enormous value
- Public policy must weigh cost, privacy, quality



## Contact Information

Representative Cindy Rosenwald, Chairman  
Health, Human Services, and Elderly Affairs Committee  
Legislative Office Building, Room 205A  
33 North State Street  
Concord, NH 03301  
603.271.3580 (office)  
603.595.9896 (home)  
[Cindy.Rosenwald@leg.state.nh.us](mailto:Cindy.Rosenwald@leg.state.nh.us)