

Introduced by

Representatives Kasper, Dosch, Ruby

1 A BILL for an Act to create and enact a new section to chapter 43-15, a new section to chapter
2 43-15.1, and a new subsection to section 43-17-31 of the North Dakota Century Code, relating
3 to confidentiality of identifying information and prohibited acts by pharmacies, pharmacists,
4 physicians, and wholesale drug distributors.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 43-15 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Confidentiality of identifying customer information - Exceptions.**

- 9 1. Unless a customer provides express authorization under this section, a pharmacist
10 or pharmacy may not:
- 11 a. Disclose identifying customer information to a third party for the purpose of
12 marketing a product or service; or
- 13 b. Participate in for-profit marketing of a product or service to a customer if the
14 marketing to the customer is based upon identifying customer information.
- 15 2. A pharmacist or pharmacy may disclose identifying customer information to an
16 affiliate or a third party without the express authorization under this section if the
17 disclosure is related to administration of the pharmacy and if that disclosure is not
18 for marketing purposes. The recipient of identifying customer information under
19 this subsection shall keep the information confidential.
- 20 3. An express authorization by a customer under this section is valid for no more than
21 one year; must clearly identify who will be provided the identifying customer
22 information; must clearly identify what the identifying customer information will be
23 used for; must be in writing; and must be made knowingly by the customer.

1 4. This section does not limit the ability of a pharmacist to dispense generic drugs or
2 provide drug counseling to customers.

3 **SECTION 2.** A new section to chapter 43-15.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Prohibited marketing.** A wholesale drug distributor may not offer or provide, directly or
6 indirectly, to a physician any fee, commission, rebate, gift, incentive, or other compensation of
7 more than nominal value for prescribing or distributing a drug to a patient.

8 **SECTION 3.** A new subsection to section 43-17-31 of the North Dakota Century Code
9 is created and enacted as follows:

10 The receipt, directly or indirectly, of a fee, a commission, a rebate, a gift, an
11 incentive, or any other compensation of more than nominal value from a drug
12 manufacturer, drug wholesaler, pharmacy, or pharmacist for prescribing or
13 distributing a drug to a patient. This subsection does not restrict the receipt or
14 distribution of promotional items of nominal value or of sample drugs. This
15 subsection does not restrict a physician from providing drug counseling to a patient
16 or from reviewing or revising a patient's prescription.