

**UNLAWFUL PROVISION OF IDENTIFIABLE  
PRESCRIPTION INFORMATION**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jackie Biskupski**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Utah Criminal Code to make it a class B misdemeanor to unlawfully provide identifiable prescription information.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ makes it a class B misdemeanor to provide, sell, exchange, purchase, obtain, or use identifiable prescription information for a commercial purpose, except as permitted by this bill.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-10-3001**, Utah Code Annotated 1953

**76-10-3002**, Utah Code Annotated 1953

**76-10-3003**, Utah Code Annotated 1953

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28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **76-10-3001** is enacted to read:

30 **Part 30. Unlawful Provision of Identifiable**  
31 **Prescription Information**

32 **76-10-3001. Title.**

33 This part is known as "Unlawful Provision of Identifiable Prescription Information."

34 Section 2. Section **76-10-3002** is enacted to read:

35 **76-10-3002. Definitions.**

36 As used in this part:

37 (1) "Carrier" means:

38 (a) a health insurance entity, as defined in Section 26-19-2;

39 (b) a person who:

40 (i) is an insurer, as defined in Section 31A-1-301; and

41 (ii) provides accident and health insurance, as defined in Section 31A-1-301;

42 (c) a health maintenance organization, as defined in Section 31A-8-101;

43 (d) a limited health plan, as defined in Section 31A-8-101;

44 (e) a nonprofit health service insurance corporation, described in Title 31A, Chapter 7,

45 Nonprofit Health Service Insurance Corporations;

46 (f) a third party administrator, described in Title 31A, Chapter 25, Third Party

47 Administrators; or

48 (g) employee benefit plans, as defined in Section 49-20-102.

49 (2) "Commercial purpose" means the use of information to seek or obtain pecuniary  
50 gain, directly or indirectly, including:

51 (a) making a marketing strategy or plan;

52 (b) soliciting a person to purchase an item or substance;

53 (c) advertising;

54 (d) promoting;

55 (e) persuading a person to try, or to consider trying, an item or substance;

56 (f) influencing the market share of a person or product; or

57 (g) influencing or evaluating;

58 (i) the prescribing behavior of a prescriber;

59 (ii) the purchasing choices of a person; or

60 (iii) the effectiveness of a marketing effort.

61 (3) "Electronic transmission intermediary" means a person that provides the  
62 infrastructure to electronically transfer identifiable prescription information between the  
63 following:

64 (a) carriers;

65 (b) pharmacists;

66 (c) pharmacies; and

67 (d) prescribers.

68 (4) "Identifiable prescription information" means any information related to a  
69 prescription that is, or makes it possible to obtain, identifying information relating to the  
70 prescriber or the person for whom the prescription is made, including the prescriber's or  
71 person's:

72 (a) name;

73 (b) address;

74 (c) telephone number;

75 (d) insurance identification number;

76 (e) Social Security number;

77 (f) employer; or

78 (g) business association.

79 (5) "Pharmacist" is as defined in Section 58-17b-102.

80 (6) "Pharmacy" is as defined in Section 58-17b-102.

81 (7) "Prescriber" means a practitioner, defined in Section 58-37-2, who is authorized to  
82 issue a prescription.

83 (8) "Prescription" is as defined in Section 58-37-2.

84 Section 3. Section **76-10-3003** is enacted to read:

85 **76-10-3003. Unlawful provision of identifiable prescription information.**

86 (1) Except as provided in Subsection (3) or (4), it is unlawful for a person to provide,  
87 sell, exchange, purchase, obtain, use, or permit the use of identifiable prescription information  
88 for a commercial purpose.

89 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor.

90           (3) A person is not guilty of a violation of Subsection (1), if the person engages in the  
91 conduct described in Subsection (1) only for one or more of the following purposes:

92           (a) if the person is a prescriber, a pharmacy, a pharmacist, a carrier, or an electronic  
93 transmission intermediary, to:

94           (i) enable a patient of the prescriber, or a representative of the patient, to obtain:

95           (A) a prescription; or

96           (B) an item or substance that requires a prescription;

97           (ii) communicate about patient safety or a generic substitution;

98           (iii) respond to questions from a patient of the prescriber; or

99           (iv) obtain payment for a prescribed item or substance;

100           (b) to provide a patient or a representative of a patient with a safety warning or a  
101 labeling change;

102           (c) to report an adverse event;

103           (d) to comply with the provisions of the Controlled Substance Database described in  
104 Sections 58-37-7.5 and 58-37-7.8;

105           (e) to ensure formulary compliance;

106           (f) to transfer information as part of a transfer of pharmacy ownership;

107           (g) to comply with a court order; or

108           (h) for any other purpose expressly permitted by law.

109           (4) A person is not guilty of a violation of Subsection (1), if the person engages in the  
110 conduct described in Subsection (1) with the consent of the person to whom the information  
111 relates.

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**Legislative Review Note**  
**as of 1-25-10 9:05 AM**

**Office of Legislative Research and General Counsel**

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**H.B. 104 - Unlawful Provision of Identifiable Prescription Information**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses that engage in offenses as outlined in this bill will be impacted.

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