

House Bill 820

By: Representative Marin of the 96<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated,  
2 relating to prescription drugs, so as to prohibit prescription information from being licensed,  
3 transferred, used, or sold for commercial purposes; to provide for statutory construction; to  
4 provide for violations of such prohibition; to provide for the collection of information on  
5 patient assistance programs; to provide for related matters; to repeal conflicting laws; and for  
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to  
10 prescription drugs, is amended by adding new Code sections to read as follows:

11 "26-4-91.

12 Records relative to prescription information containing patient identifiable and prescriber  
13 identifiable data shall not be licensed, transferred, used, or sold by any pharmacy benefits  
14 manager; insurance company; electronic transmission intermediary; retail, mail order, or  
15 Internet pharmacy; or other similar entity for any commercial purpose, except for the  
16 limited purposes of pharmacy reimbursement; formulary compliance; care management;  
17 utilization review by a health care provider, the patient's insurance provider, or the agent  
18 of either; health care research; or as otherwise provided by law. Commercial purpose  
19 includes, but is not limited to, advertising, marketing, promotion, or any activity that could  
20 be used to influence sales or market share of a pharmaceutical product, influence or  
21 evaluate the prescribing behavior of an individual health care professional, or evaluate the  
22 effectiveness of a professional pharmaceutical detailing sales force. Nothing in this Code  
23 section shall prohibit the dispensing of prescription medications to a patient or to the  
24 patient's authorized representative; the transmission of prescription information between  
25 an authorized prescriber and a licensed pharmacy; the transfer of prescription information  
26 between licensed pharmacies; the transfer of prescription records that may occur in the

27 event a pharmacy ownership is changed or transferred; care management educational  
28 communications provided to a patient about the patient's health condition, adherence to a  
29 prescribed course of therapy, or other information about the drug being dispensed, treatment  
30 options, or clinical trials. Nothing in this Code section shall prohibit the collection, use,  
31 transfer, or sale of patient and prescriber de-identified data by ZIP Code, geographic region,  
32 or medical specialty for commercial purposes. In addition to other appropriate remedies  
33 under this chapter, a violation of this Code section shall be considered an unfair or deceptive  
34 act or practice within the meaning of Code Section 10-1-393. Any penalties, procedures,  
35 rights, and remedies applicable to violations of Code Section 10-1-393 shall be applicable  
36 to a violation of this Code section.

37

38 26-4-92.

39 (a) No later than January 31 each year, any clearing-house that provides information to  
40 residents of this state about pharmaceutical manufacturers' patient assistance programs  
41 shall, to the extent that the clearing-house collects such information, provide aggregate  
42 information from the previous calendar year to the commissioner of community health  
43 relative to either:

44 (1) The number of people in this state who may qualify for any manufacturer or  
45 government program during the calendar year; or

46 (2) The number of patients served during the calendar year.

47 (b) An individual company may provide additional information about the individual  
48 company's patient assistance program; provided, however, the commissioner of community  
49 health shall combine all information from all sources, including individual companies and  
50 the clearinghouse, and shall report only aggregate information to the public."

51

## SECTION 2.

52 All laws and parts of laws in conflict with this Act are repealed.