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## **OLR Bill Analysis**

### **SB 208**

#### ***AN ACT CONCERNING PHARMACY REWARDS PROGRAMS AND PROTECTED HEALTH INFORMATION.***

##### **SUMMARY:**

This bill requires retailers to give consumers a written, plain-language summary of the terms and conditions of pharmacy rewards programs before enrolling consumers in the programs. It requires additional disclosures in the summary and the rewards program enrollment form, if the consumer must sign a Health Insurance Portability and Accountability Act (HIPAA) authorization to participate in the program (see BACKGROUND).

Under the bill, a “pharmacy rewards program” is a promotional arrangement where a retailer gives a consumer store credits, discounts, or other tangible benefits in exchange for the consumer filling prescriptions through the retailer or its affiliate.

A violation of the bill’s requirements is an unfair or deceptive trade practice under the Connecticut Fair Trade Practices Act (CUTPA).

EFFECTIVE DATE: July 1, 2014

#### **HIPAA AUTHORIZATION DISCLOSURES**

##### ***Terms and Conditions***

Under the bill, if a HIPAA authorization is required to participate in a pharmacy rewards program, the plain-language summary describing its terms and conditions must include a disclosure statement (1) describing what a HIPAA authorization is and (2) explaining that once an authorization is signed, the consumer’s personal health information may not be protected under state and federal privacy laws. This statement must be conspicuous and in bold font.

### ***Enrollment Form***

The bill also requires retailers that make consumers sign a HIPAA authorization to participate in their pharmacy rewards programs to include the following information on their enrollment forms:

1. the specific uses or disclosures allowed by the authorization;
2. whether personal health information the retailer obtains will be disclosed to third parties and, if so, that the information will not be protected by privacy laws;
3. which third parties will have access to the health information;
4. how to revoke the authorization; and
5. that the consumer is entitled to a copy of the signed authorization.

This information must be provided at the point of HIPAA authorization. (Presumably, this is where the consumer signs his or her name).

Federal law already requires authorizations to include such things as a description of protected health information that will be used and disclosed, the people allowed to make the use or disclosure, and the parties who may receive the information (45 CFR 160 and 164).

### ***Relevant Terms***

The bill requires certain terms, if they are used, to be defined in promotional materials, the plain-language summary, and the enrollment form at the point of HIPAA authorization. The terms included are:

1. HIPAA,
2. Health Insurance Portability and Accountability Act of 1996,
3. HIPAA authorization,
4. personal health information,

5. Privacy Rule,
6. privacy law, and
7. marketing purposes.

## **BACKGROUND**

### ***HIPAA***

The HIPAA “privacy rule” sets national standards to protect the privacy of health information. It protects individually identifiable health information by defining and limiting the circumstances under which covered entities may use or disclose such information.

### ***Connecticut Unfair Trade Practices Act (CUTPA)***

CUTPA prohibits unfair and deceptive acts or practices. It allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney’s fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

## **COMMITTEE ACTION**

General Law Committee

Joint Favorable

Yea 17      Nay 0      (03/13/2014)