

# Clued in to who's prescribing what

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When he worked in New York City as a pharmaceutical sales rep, Shahram Ahari said he would review the prescribing patterns of psychiatrists in his territory every day.

From his laptop, he would glean the names of the largest prescribers overall and even the doctors giving out the most drugs in a class, such as antidepressants. He would then focus on those high-prescribing doctors, offering them dinners, drug samples, trips and grants.

"I was plying doctors with gifts, and I was seeing changes in their prescribing because they felt indebted to me," said Ahari, now a pharmacy researcher at the University of California, San Francisco, who regrets his past. "This prescribing data is a crucial weapon in the drug rep's arsenal."

That weapon - which is both legal and commonplace - is part of a growing controversy. Critics say the data provide a key opening for drug firms' marketing of doctors.

"It's a critical piece in a machine that is really set up by the pharmaceutical industry to move physicians toward newer and more expensive drugs," said Robert Restuccia, executive director of the Prescription Project, an advocacy group in Boston financed by the Pew Charitable Trusts.

Three states led by New Hampshire have passed laws since mid-2006 restricting the use of this data, and several others are considering such laws.

But three leading firms that collect the data - all in the Philadelphia area - have mounted a vigorous counteroffensive, persuading a federal judge in April to knock out the New Hampshire law and suing in late August to stop two others, Vermont and Maine, from throwing up restrictions. Bills have died in more than a dozen states, the companies said. A congressional bill, introduced last year by U.S. Rep. Frank Pallone Jr. (D., N.J.), also died without action. Legislators in Pennsylvania and New Jersey have yet to weigh in.

To the executives, the state actions violate their commercial free-speech rights. They emphasize that the data are also used for researching public-health issues, finding doctors to help in clinical trials, and tracking bad drug reactions. And while the prescriber is identified, all patient information is kept confidential.

The accounts that many doctors give - that drug reps confront them if they don't prescribe enough of their company's pills - have become rare, said Jeff McCaulley, chief executive officer of Conshohocken-based Wolters Kluwer Health, one of three data firms involved in the lawsuits, along with IMS Health Inc., of Plymouth Meeting, and Verispan L.L.C., of Yardley.

"It's true that the pharmaceutical sales reps were using these lists to target high-prescribing doctors. That's not the case today," McCaulley said. "There's a lot of focus, on the part of the pharmaceutical industry, to be responsible."

There is also a lot of interest in the American Medical Association, whose unique role stirs controversy. The group garners millions by selling doctor-survey information to the data firms, enabling them to identify

doctors. At the same time, the group offers a special program to protect the prescribing histories of physicians upset over the surveillance.

Since mid-2006, doctors can choose to keep their data from sales reps by enrolling in the AMA's Prescribing Data Restriction Program.

This opt-out option has soothed doctors' anger over profiling, said Jeremy A. Lazarus, speaker of the House of Delegates, the AMA's legislative body.

The group has not received a single complaint since the opt-out program began in July 2006, said Lazarus, a Denver psychiatrist. "We listened to what our policymaking body wanted."

But many doctors remain unimpressed. While the AMA effort keeps prescribing data from the drug reps and their direct supervisors, the material still goes to the firm, which must keep it separate. "We look at that as the fox guarding the henhouse," said Marc M. Sadowsky, immediate past president of the New Hampshire Medical Society and a backer of the state's law.

The AMA program also remains small; 9,328 physicians have signed up out of 800,000 doctors the AMA surveys, a spokesman said.

The group plans to spend nearly \$500,000 this year advertising the program.

But Sadowsky said he believed the AMA had a big incentive not to push harder. The association received \$46.9 million in 2006 from selling information, including the Physician Masterfile, which helps make the prescribing data more useful. "Their database would lose its value if the vast majority of American physicians opted out," Sadowsky said.

Drug-sellers have been profiling doctors since the 1940s. That's when drug salesmen began focusing on doctors and using "caricatures during sales training, such as 'Dr. Snob,' 'Dr. Resistant' and 'The Backslapper,'" wrote Jeremy A. Greene, a Harvard physician whose history of prescriber surveillance appeared this year in the *Annals of Internal Medicine*.

Drug firms now typically spend \$30 billion a year on all marketing to doctors and consumers, including drug samples, television ads and sales reps. That is fully 18 percent of their revenue, according to Julie M. Donohue, a health-policy researcher at the University of Pittsburgh.

The data firms have also grown, and they rely heavily on prescriber data. IMS received 47 percent - \$927 million - of its 2006 revenue from "sales force effectiveness" products. Wolters Kluwer Health generates 20 percent to 25 percent of its \$1.1 billion in revenue from similar products.

According to executives, the data firms pay pharmacy chains and other sources for prescription data. Software removes patient identity before the data leave the pharmacies.

The information is then linked up to the AMA Physician Masterfile, operating since 1906. It plays a key role in identifying doctors by collecting and selling the license numbers and much more on 800,000 doctors, mostly nonmembers.

The process does not bother Michael L. Capella, an assistant marketing professor at Villanova School of Business' Center for Marketing and Public Policy Research. "Greater transparency in health care is better than less," he said.

Capella, who has used the data in his research, said it has enabled firms to learn quickly if their marketing efforts were paying off. It also "levels the playing field" for small biotech firms seeking to match the market surveillance of bigger competitors, he said.

Many doctors hold a darker view. "I would say most physicians don't particularly like it and wish that it didn't happen," said David C. Dale, president of the American College of Physicians, the national group representing internal medicine. "It seems like an invasion of privacy, an invasion of the doctor-patient relationship."

Cindy Rosenwald saw it that way. As a New Hampshire state representative and the wife of a cardiologist, she led the fight in June 2006 to pass the first law restricting the practice.

She won support in part by arguing that the intense profiling encourages the use of the newest, most expensive drugs, driving up health-care costs.

Both houses were Republican-controlled when the bill sailed through.

Now, its fate rests with the U.S. Circuit Court of Appeals for the First District, in Boston. "I personally believe it's a matter of time," Rosenwald said. "This issue is not going to go away."

But Randy Frenkel, IMS's vice president of external affairs, said the firms planned to sue any state that followed New Hampshire's lead.

"Doctors are trying to create a special right of privacy," added Jody Fisher, Verispan's vice president of product management. "I can certainly appreciate where they're coming from. But the way the world is going is toward increased transparency of information."