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Think info about your Rx is private? Better think again

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Do you know where your private prescription information is? As pharmacy chains, benefits companies and drug makers work more closely, your prescription history is being shared more than you might think.

CVS Caremark, which handles more than 1 billion prescriptions a year, has made no secret that sharing such information is a cornerstone of its business.

"We have more information on the consumer and their behavior than anybody else, and we share it with our over-the-counter suppliers," Thomas Ryan, president and chief executive, told investors last year. "We share it with our pharmacy suppliers. So we know how the consumer works."

In a case involving Eli Lilly and Co. and CVS Caremark, it remains unclear how much of a patient's information was switching hands.

CVS Caremark said it sent promotions for the Lilly drug Cymbalta to doctors "who are likely to treat patients with symptoms consistent with fibromyalgia." Lilly said it did not have any information on which patients were taking fibromyalgia drugs.

But in mailings funded by Merck, AstraZeneca and other drug makers, CVS Caremark identified patients by name, date of birth and medications taken. The letters stated that the patients were identified through CVS Caremark prescription claims data as having one or more prescriptions for a certain drug for a certain condition.

"The whole thing is just disturbing," said Dr. Jack Freer, associate director of the Center for Clinical Ethics and Humanities in Health Care at the University of Buffalo.

"Benefits companies are using patient information as a commercial pitch to drug companies. Is it an abuse of that relationship? Of course it is."

But is it a violation of patient privacy laws? That is less clear.

The Health Insurance Portability and Accountability Act of 1996, commonly known as HIPPA, gives patients certain privacy rights over their medical information -- for example, protection against marketing campaigns.

But some privacy experts say the CVS Caremark mailings don't technically violate HIPPA regulations, because the letters are sent as educational materials to doctors, not as promotional campaigns.

"That's what's disgusting," said Dr. Deborah Peel, a physician in Austin, Texas, and founder of Patient Privacy Rights, a watchdog group. "I think any reasonable person would consider these kinds of letters marketing. How is it not marketing? It's all for a fee."

CVS Caremark was formed two years ago when CVS, one of the nation's largest drugstore chains with about 7,000 pharmacies, bought pharmacy-benefits manager Caremark Rx for nearly \$27 billion, making the combined companies the biggest U.S. buyer of pharmaceuticals.

Pharmacy benefits managers have huge influence over which drugs patients receive by choosing which drugs to place on their formularies.

Yet the company's mailings on behalf of drug makers raise questions about where its loyalties lie.

As a pharmacy benefits manager, its primary job is to manage companies' prescription drug benefits plans and to recommend the cheapest, most effective treatment for diseases -- not to push whatever treatment a drug company is paying it to mail information to doctors.

In 2005, Caremark settled a lawsuit for \$137 million brought by the U.S. Department of Justice, which alleged that one of its units carried out a program of soliciting and accepting payments from drug manufacturers to promote certain drugs to physicians and insurance plans.

According to a patient advocacy group, Change to Win, which represents workers in CVS Caremark plans that cover more than 10 million people, a benefits manager later bought by CVS had misrepresented to doctors and plans that the drugs were cheaper or more effective or both.

Actually, the drugs it encouraged patients to use were more costly or less effective.

In an era of national health insurance reform, the practice is beginning to create a backlash among physicians and is leading some lawmakers to push for more transparency.

The U.S. Senate is considering an amendment that would force such companies to disclose much more financial detail about their interactions with drug makers, including how much of the savings they negotiate with drug companies are passed on to consumers.

The industry has been fighting the measure, saying it could lead to higher costs.
