

News

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Federal Appeals Court Overturns Vermont Law that Restricted Commercial Use of Physician Information

Overturns Lower Court Decision; Ruling Recognizes Value of Information to Improve Healthcare

New York, NY, November 23, 2010 – The U.S. Court of Appeals for the Second Circuit today ruled that a Vermont law restricting the commercial use of information relating to physician prescribing patterns is unconstitutional. Judge John G. Koeltl wrote the majority opinion overturning an April 2009 U.S. District Court decision, concluding the Vermont law *“is a commercial speech restriction that does not directly advance the substantial state interests asserted by Vermont.”*

The federal appeals court ruled in favor of IMS Health, SDI and Source Healthcare Analytics, three leading health information companies that jointly filed a lawsuit seeking to prevent Vermont from enforcing the state law enacted in July 2009.

“We are very pleased with today’s decision. Patients will benefit from a more transparent, safer and more competitive healthcare system as a result

of this ruling," said Harvey Ashman, IMS senior vice president and general counsel. "These types of laws do nothing to advance public health and in fact pose a risk to patients by arbitrarily delaying information on new medicine or warnings on existing medicines."

While more than 100 similar bills have been introduced in state legislatures across the country, only three have been passed into law and none since 2007 when Vermont and Maine joined New Hampshire as the only three states to do so.

An amicus brief filed by a group of academic research scientists from institutions such as MIT, Columbia, Dartmouth and the University of Wisconsin provides some insight into the great value of the information:

"A large part of contemporary research in virtually all fields of intellectual endeavor involves the gathering, synthesizing, organizing, and analyzing of thousands, millions, or even billions of discrete transactions and events. This data is "crunched" for what it may illuminate or reveal, thereby advancing creativity and innovation in all realms of learning. The production and use of such data serves all of the worthy purposes that animate the First Amendment's protection of the free flow of information."

The three companies that brought the suit and others affirm that commercial access to physician prescribing patterns has great public health value. That particular information is used for a wide variety of beneficial purposes, including to study prescribing trends, monitor the safety of new medications, support safety-oriented risk management programs, prevent prescription drug abuse, expedite drug recalls, recruit for clinical trials, and study treatment variability and outcomes.

IMS, SDI and Source Healthcare Analytics (a division of Wolters Kluwer Health) are companies that collect and analyze a vast array of information regarding medicines and other aspects of healthcare, and provide information, analytics and consulting services to government agencies including the DEA, FDA and CDC, departments of health, academic researchers, pharmaceutical manufacturers, biotechnology companies and generic drug manufacturers.

Information about physician prescribing patterns does not contain patient identity or any patient identifiers. The companies believe that patient privacy can and must be preserved and protected while health information is used responsibly to improve healthcare delivery. The companies utilize privacy protections, including de-identification and appropriate administrative, technical and physical safeguards to protect patient privacy and to advance worldwide medicine and improve healthcare quality and value for patients.

To read the full Second Circuit Court of Appeals decision, click here: [IMS Health v. Sorrell](#)

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About IMS

Operating in more than 100 countries, IMS Health is the world's leading provider of market intelligence to the pharmaceutical and healthcare industries. With more than 55 years of industry experience, IMS offers leading-edge market intelligence products and services that are integral to clients' day-to-day operations, including product and portfolio management capabilities; commercial effectiveness innovations; managed care and consumer health offerings; and consulting and services solutions that improve productivity and the delivery of quality healthcare worldwide. Additional information is available at <http://www.imshealth.com>

As a global leader in protecting individual patient privacy, IMS uses de-identified healthcare data to deliver critical, real-world disease and treatment insights. These insights help biotech and pharmaceutical companies, medical researchers, government agencies, payers and other healthcare stakeholders to identify unmet treatment needs and understand the effectiveness and value of pharmaceutical products in improving overall health outcomes.

About SDI

SDI is a leading healthcare market insight and analytics firm. It provides the industry's most comprehensive de-identified patient-level data to pharmaceutical, biotech, retail pharmacy, and medical device companies, enabling them to better understand the healthcare market. SDI also serves the government and the financial services, media, and consumer packaged goods industries. Founded in 1982, SDI counts the world's top 50 pharmaceutical and biotech firms as its clients. For more information, visit www.sdihealth.com.

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