

**Testimony regarding Public Law 2009, Charter 230 (LD 1183)**  
**“An Act to Prevent Predatory Marketing Practices Against Minors**  
**Regarding Data Concerning Health Care Issues”**  
**October 8, 2009**

Senator Bliss, Chairman Priest, and other distinguished members of the Joint Standing Committee on Judiciary. My name is Ann Woloson. I am the Executive Director of Prescription Policy Choices, a nonprofit, nonpartisan public policy organization with the goal of improving access to safe, effective and affordable medicine in the US. I live in Belgrade, Maine and am the mother of 2 children, one 16 year old girl and one 11 year old girl.

I testified in support of LD 1183 last April because as both a health care policy analyst, and as a parent of two children, I am very concerned about marketing practices targeted at kids, particularly technological marketing strategies being used by the pharmaceutical industry to boost prescription drug and other product sales. These “marketing strategies” include the collection of personal information from minors, that will likely be used, shared, sold, and “data-mined” in an attempt to sell products. While federal law provides some protection from these activities for kids under the age of 13, I believe the state of Maine has a strong interest in protecting teenagers older than 13 from unscrupulous activity; especially given the extraordinary advancements made in technology over a relatively short period of time and the lack of current law at both the state and federal level regulating these activities.

I want to be clear that my support of the legislation was in no way an attempt at limiting first amendment rights which refer to personal speech; which I believe is different than commercial speech, which others are likely to speak about today. Rather, my support stemmed from the enormous need to protect our kids, especially teenagers who are spending more time on-line and are more likely to take risks, including participating in the unscrupulous collection of personal information via technology. Let me clear this is happening, and the information that is collected to target and promote drugs to kids, jeopardizes the health, safety and welfare of not only my kids, but most other kids who have access to computers at home, or are provided them through schools, and who are spending more and more time on line. Whether a child is 13 or 16, it is clear most don't have the mental screening process needed, to determine what information should not be given out online. Nor do they have an understanding of how that information may be used, shared, sold, etc.

I urge you as policymakers, who have the responsibility and ability to protect the health, safety and welfare of children in Maine, to work toward striking a balance – that is to protect the interests those who have a real reason to be concerned about the first amendment, while also preserving the state's interest in protecting children and teenagers from the risks associated with online predatory marketing practices. Please be diligent in your review of this legislation, and work to preserve the protections it provides to Maine's youth.

As I indicated, in my testimony regarding the original bill, pharmaceutical industry trade journals, including the *Pharmaceutical Executive* and the *Pharmaceutical Representative* indicate a greater focus on broadening e-marketing efforts by the industry.

Online ads will amount to \$30 billion in the US this year. Minors are frequent targets of these ads via social marketing sites like MySpace. Minors are targeted through other means, as well. For example [www.coollearnings.com](http://www.coollearnings.com) sponsored by a growth hormone manufacture offered kids free MP3 downloads for answering a quiz correctly. The site featured what my kids described as awesome “quiz” where those who completed it, felt like they were sitting in a very nice movie theater, with cool lights, fancy curtains, etc. The site offered free gifts, including backpacks, lunch boxes, and art back-packs, for completing a quiz and filling out an on-line form, which I attached to my original testimony in April. I’ve brought the art backpack with me today, that I received as a result of filling out the form and answering questions on the site, including questions about a child’s age, name, address, etc. The website is still up and running, but for some reason, while the link to the free stuff is still on the site, it is not presently functioning.

There are unintentional consequences to these online marketing strategies where personal information from kids is requested:

- Personal or health care related information collected, stored, and shared, is often used over time for marketing purposes, beyond that which the person giving the information believes it was going to be used for; and, if accessed by the wrong entity, the information could be used for identify theft, etc. In fact, on its web site on how to prevent identity theft, the Federal Trade Commission discourages online users from responding to Popup Ads and providing personal information via the internet.
- Children can unknowingly be steered toward certain drugs that are unnecessary, less safe, are more expensive and no more effective other products on the market; some of which may pose other health related problems, throughout their lives.

Some examples include:

NuvaRing, a birth control devise which is inserted into the body and needs to be replaced on about a monthly basis. Pop-up ads on the internet and MySpace link viewers to a website with forms requesting name, address, email address, etc to access \$15 discount coupons. Another page encourages you to “Sign up for your Daily Horoscope”, also asking for your name and email. Finally, another page asks you to give the name and email of a friend.

While I have no problems with teens accessing birth control, I do worry about kids who give drug companies their personal information over the internet that is in turn used to market its products; products which may have unknown side effects or pose additional risks - in this example no protection from sexually transmitted disease(s). While there are some who may take the next step in learning more about the risks of new drugs marketed to them on-line, kids are less like to do so, especially since the risks are often complex, difficult to understand and provided in a format not considered to be “consumer friendly”. I’ve attached a copy of the manufacturer’s Full Product Information sheet that is included on the Nuvo’s website. It is 6 pages long and in very tiny print. While an

abbreviated format is included on the website, the most dangerous risks (including information associated with those who smoke) appear at the bottom of a very long webpage, after minor side effects are described.

The point I trying to make is teens who provide their personal information to drug companies over the internet, will be marketed to... and what might look interesting to them at face value; could pose substantial risks to them, unknowingly, after it's too late

Another web site, promoting Differin, an acne cream, offers a "down loadable" rebate for \$35... but a form needs to be completed first which requires name, address, date of birth, email, etc. I believe the company could just provide the rebate coupon without asking for the teen's personal information. The company will likely tell you the information is needed in case there is a recall, etc. But the patient's doctor, and/or pharmacy, knows exactly who has the prescription and/ or product, and could easily be used to contact patients for safety recalls, etc. The drug companies clearly are asking for the information to help them target their marketing, in this case to kids.

Finally, I want to remind you about the Justice Department's recent announcement regarding the \$2.3 billion settlement with pharmaceutical giant Pfizer Inc., the largest health care fraud settlement in history. The case represents the industry's blatant interests in prioritizing profits over patient safety, including its relentless strategies to target children. The recent settlements with Pfizer included allegations of inappropriate marketing of certain drugs, including antipsychotic medications to kids for uses not approved by the FDA. I'm mentioning it because an FDA panel recently recommended a drug, along with two others, which was the focus of one of the settlements, be approved for use in kids, even though these drugs are associated with serious, lifetime side effects, including substantial weight gain, high blood pressure and diabetes. The panel which OKed the drugs for use in kids was divided (8 in favor, 9 abstaining, 1 against), with voting in favor far from unanimous. Reasons given by some panel members for abstaining from voting included the short amount of time given to clinical studies related to children and concerns about the serious side effects previously mentioned. While the FDA does not have to accept panel recommendations, the agency usually does.

I am mentioning this because once these drugs are approved, they will be heavily marketed. And while I believe it is true that kids with severe mental health diagnosis' may benefit from these drugs, there are many others for whom the drugs will be marketed to, who do not need the drugs, who will undoubtedly suffer serious, lifetime illnesses as a result of taking them. There is no question these drugs will be marketed over the internet.

We tell our kids not to talk to strangers in person and on the internet. We remind them daily not to give information about themselves that can be used for the wrong reason, that could put them in danger, etc. On-line marketing to kids, which goes beyond promoting a product by asking kids to give their personal information via the internet, is a problem. You are in a position to do something about it. As a parent of 2 children who are bombarded by ads via the internet every day, I ask you to please do so. Thank you.