

**PUBLIC CHAPTER NO. 710**

**HOUSE BILL NO. 3793**

**By Representative Mike Turner**

Substituted for: Senate Bill No. 3904

By Senators Kyle, Berke

AN ACT to amend Tennessee Code Annotated, Section 10-7-504, relative to information submitted to the state during contract procurement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-504 is amended by adding the following language as new, appropriately designated subsections:

(n) Notwithstanding any law to the contrary, the following documents submitted to the State in response to a request for proposal or other procurement method shall remain confidential after completion of the evaluation period:

(1) Discount, rebate, pricing or other financial arrangements at the individual drug level between pharmaceutical manufacturers, pharmaceutical wholesalers/distributors, and pharmacy benefits managers (as defined in § 56-7-3102) that a proposer:

(i) Submits to the State in response to a request for proposals or other procurement methods for pharmacy-related benefits or services;

(ii) Which the proposer includes in its cost or price proposal, or provides to the State after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee; and

(iii) Explicitly marks as confidential and proprietary.

(2) Discount, rebate, pricing or other financial arrangements at the individual provider level between health care providers and health insurance entities (as defined in § 56-7-109), insurers, insurance arrangements and third party administrators that a proposer:

(i) Submits to the State in response to a request for proposals or other procurement method after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee, in response to a request by the State for additional information; and

(ii) Explicitly marks as confidential and proprietary.

(o) Information made confidential by subsection (n) shall be redacted wherever possible; and nothing contained in subsection (n) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information. The confidentiality established by subdivision (n)(2) is applicable only to information submitted to the State after completion of the evaluation period; and provision of the notice of intended award of the contract and such information shall only be used to validate the accuracy of the apparent contract awardee's proposal and shall not be used to alter the scope of the information required by the State's procurement document requesting proposals. Any report produced by the State, or on the State's behalf, utilizing the information made confidential by subdivision (n)(2) shall not be considered confidential hereunder so long as such report is disclosed in an aggregate or summary format without disclosing discount, rebate, pricing or other financial arrangements at the individual provider level.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

**PASSED: March 17, 2010**

  
KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 31st day of March 2010**

  
PHIL BREDESEN, GOVERNOR