

Bitter pills

Oregon is suing the Drug Enforcement Administration for sticking its nose into pharmaceutical records — yours

BY JAKE THOMAS
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We all thought our phone records and credit card transactions were private. Think again, the feds told us. But our medical records? That's sacred ground, right? Not so much — again, so the feds tell us. Depending on the outcome of a court case, medical records might not be so private anymore.

In the 1970s, the U.S. Supreme Court established the “third-party doctrine,” which holds that information that consumers hand over to third parties (i.e. credit card companies, telephone companies or utility provider) can be accessed by the government relatively easily. Consumers had no reasonable expectation of privacy.

In recent years, the court's reasoning for the third-party doctrine has come under increased scrutiny as we enter a world where handing over private information to third parties has become necessary to communicate with others and participate in the modern economy.

The state of Oregon, joined by the American Civil Liberties Union, is challenging an application of the third-party doctrine concerning something deeply private to many individuals: medical records. In November, the state filed suit against the DEA, challenging the agency's claim that under the third-party doctrine it can access a database administered by the Oregon Prescription Drug Monitoring Program without a warrant.

The database was created by lawmakers in 2009 to track prescriptions for an eight-page-long list of medications used to treat anxiety and panic disorders, weight loss associated with AIDS, Attention Deficit Hyperactivity Disorder, the testosterone needed by many transgendered men and others. Lawmakers intended the database to help health care providers better manage patients' prescriptions and prevent abuses, particularly “doctor shopping.” In order to protect patients' privacy, they included a provision that required law enforcement to secure a warrant before accessing the database.

However, the DEA is arguing that patients “do not have a constitutionally protected privacy interest” in their prescriptions, similar to their phone records or other documents subject to the third-party doctrine.

In order to get a sense of what's at stake in the case, Street Roots spoke to Nathan Wessler, a staff attorney with the American Civil Liberties Union, which intervened in the case in January on behalf of patients and a physician residing in Oregon.

Jake Thomas: *I want to start with the big question in this case. If the DEA prevails, what will it mean?*

Nathan Wessler: It will mean that the DEA will continue its practice of requesting people's confidential medical records, their prescription records, from Oregon's monitoring program without a warrant.

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Rx

Take two pills and
the **DEA** will call
you in the morning.

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Hold on, ICE

Immigrant rights groups question the county's commitment to ending ICE holds

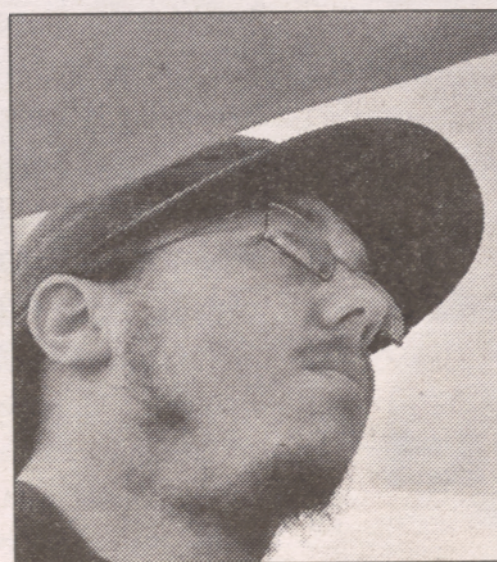
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