WASHINGTON - When most patients go to the pharmacy to fill a new prescription, they don't think twice about turning over the note from their doctor. After all, how much could the scrawl on that tiny slip be worth?

Not much to the average consumer - but to the world's largest drug makers, the information is an invaluable sales tool that they use to track what drugs individual doctors are prescribing.

Companies like IMS Health Inc., based in Norwalk, Conn., have built an industry around gathering prescription data and selling the information to pharmaceutical companies for millions of dollars each year. Pfizer Inc., Merck & Co. Inc., and nearly every other drug maker uses the data to identify which doctors are prescribing their drugs and which are prescribing the competition. When freebie-wielding salespeople show up at their offices, most doctors don't know they're being targeted based on their own prescribing habits.

But the political tide may be turning against IMS Health and competitors like Verispan, a unit of Surveillance Data Inc. After years of steady growth, they are fighting against laws in three New England states to keep prescribing information out of their hands.

Judges in Maine and New Hampshire have handed the companies early victories, declaring laws aimed at stopping the commercial use of prescription data unconstitutional. But an impending decision by the federal appeals court in Boston could overturn those actions and open the door to more restrictions nationwide.

As many as 18 states considered data restrictions this year, though analysts said they held off to see if New Hampshire's law survives legal scrutiny.

The challenges to so-called data-mining companies are part of a larger backlash against pharmaceutical marketing efforts, which involve courting doctors with gifts, meals, and other perks.

State advocates say the sales push drives up the cost of healthcare by convincing doctors to prescribe the latest, most expensive medications.

"Obviously these companies want doctors to prescribe the medicines they're marketing," said New Hampshire Assistant Attorney General Laura Lombardi. "We want doctors to make their decisions based solely on their best medical judgment."
IMS Health executives argue that without their products drug companies would have to hire even larger sales forces, because they wouldn't be able to target their efforts.

But state lawmakers note that in the decade since 1993, when IMS launched its prescription tracking system, spending on drug promotion rose 300 percent and company sales forces doubled to more than 100,000 representatives.

"The word for how I felt is 'violated,' " said Dr. Gary Sobelson, a New Hampshire doctor who supports the data restriction efforts. "They knew things about my prescribing habits that I didn't know myself."

Attorneys for New Hampshire and Maine say their laws, which ban or limit the sale of prescription data, protect the privacy of doctors and patients. But judges in both states rejected that argument, noting that all patient names are deleted from prescribing records. They also said that restricting access to the information violates the First Amendment guarantee to free speech. Vermont delayed implementing its own law until 2009, after seeing the challenges its neighbors faced.