

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 227**

**Senator Huffman**

**Cosponsors: Senators Coley, LaRose, Terhar, Beagle**

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**A BILL**

To amend section 3904.13 and to enact section 1  
3901.89 of the Revised Code to require health 2  
plan issuers to release certain claim 3  
information to group plan policyholders. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3904.13 be amended and section 5  
3901.89 of the Revised Code be enacted to read as follows: 6

**Sec. 3901.89.** (A) As used in this section: 7

(1) "Health plan issuer" has the same meaning as in 8  
section 3922.01 of the Revised Code. 9

(2) "Group policyholder" includes an authorized 10  
representative of a group policyholder. 11

(B) (1) A health plan issuer shall, upon request, release 12  
to each group policyholder claims data and shall provide this 13  
data within fourteen business days of receipt of the request. 14

(2) The data released shall include all of the following 15  
with regard to the policy in question for the policy period 16  
immediately preceding or the current policy period, as requested 17

<u>by the policyholder:</u>	18
<u>(a) The net claims paid by month;</u>	19
<u>(b) (i) If the group policyholder is an employer, the</u>	20
<u>monthly enrollment by employee only, employee and spouse, and</u>	21
<u>employee and family;</u>	22
<u>(ii) If the group policyholder is not an employer, the</u>	23
<u>monthly enrollment shall be provided and organized in a relevant</u>	24
<u>manner.</u>	25
<u>(c) The amount of any claims reserve established by the</u>	26
<u>health plan issuer against future claims under the policy;</u>	27
<u>(d) Claims over ten thousand dollars, including claim</u>	28
<u>identifier other than name and the date of occurrence, the</u>	29
<u>amount paid toward each claim, which claims are unpaid or</u>	30
<u>outstanding, and claimant health condition or diagnosis;</u>	31
<u>(e) A complete listing of all potential catastrophic</u>	32
<u>diagnoses and prognoses involving persons covered under the</u>	33
<u>policy provisions.</u>	34
<u>(C) A health plan issuer that discloses data or</u>	35
<u>information in compliance with division (B) of this section may</u>	36
<u>condition any such disclosure upon the execution of an agreement</u>	37
<u>with the policyholder absolving the health plan issuer from</u>	38
<u>civil liability related to the use of such data or information.</u>	39
<u>(D) A health plan issuer that provides data or information</u>	40
<u>in compliance with division (B) of this section shall be immune</u>	41
<u>from civil liability for any acts or omissions of any person's</u>	42
<u>subsequent use of such data or information.</u>	43
<u>(E) This section shall not be construed as authorizing the</u>	44
<u>disclosure of the identity of a particular individual covered</u>	45

under the group policy, nor the disclosure of any covered 46  
individual's particular health insurance claim, condition, 47  
diagnosis, or prognosis, which would violate federal or state 48  
law. 49

(F) A group policyholder is entitled to receive protected 50  
health information under this section only after an 51  
appropriately authorized representative of the group 52  
policyholder makes to the health plan issuer a certification 53  
substantially similar to the following: 54

"I hereby certify and have demonstrated that the plan 55  
documents comply with the requirements of 45 C.F.R. 164.504(f) 56  
(2) and that the group policyholder will safeguard and limit the 57  
use and disclosure of protected health information that the 58  
policyholder may receive from the group health plan to perform 59  
plan administration functions." 60

(G) A group policyholder that does not provide the 61  
certification required in division (F) of this section is not 62  
entitled to receive the protected health information described 63  
in divisions (B)(2)(d) and (e) of this section, but is entitled 64  
to receive a report of claim information that includes the other 65  
information described under division (B) of this section. 66

(H) A health plan issuer that fails to comply with the 67  
requirements of this section is deemed to have engaged in an 68  
unfair and deceptive act or practice in the business of 69  
insurance and is subject to sections 3901.19 to 3901.26 of the 70  
Revised Code. 71

**Sec. 3904.13.** No insurance institution, agent, or 72  
insurance support organization shall disclose any personal or 73  
privileged information about an individual collected or received 74

in connection with an insurance transaction, unless the 75  
disclosure is made pursuant to any of the following: 76

(A) With the written authorization of the individual, 77  
provided: 78

(1) If such authorization is submitted by another 79  
insurance institution, agent, or insurance support organization, 80  
the authorization meets the requirements of section 3904.06 of 81  
the Revised Code; 82

(2) If such authorization is submitted by a person other 83  
than an insurance institution, agent, or insurance support 84  
organization, the authorization is dated, signed by the 85  
individual, and obtained one year or less prior to the date a 86  
disclosure is sought under this division. 87

(B) To a person other than an insurance institution, 88  
agent, or insurance support organization, provided such 89  
disclosure is reasonably necessary for the following reasons: 90

(1) To enable such person to perform a business, 91  
professional, or insurance function for the disclosing insurance 92  
institution, agent, or insurance support organization, and such 93  
person agrees not to disclose the information further without 94  
the individual's written authorization unless the further 95  
disclosure either: 96

(a) Would otherwise be permitted by this section if made 97  
by an insurance institution, agent, or insurance support 98  
organization; 99

(b) Is reasonably necessary for such person to perform ~~its~~ 100  
the person's function for the disclosing insurance institution, 101  
agent, or insurance support organization. 102

(2) To enable such person to provide information to the	103
disclosing insurance institution, agent, or insurance support	104
organization for the purpose of either:	105
(a) Determining an individual's eligibility for an	106
insurance benefit or payment;	107
(b) Detecting or preventing criminal activity, fraud,	108
material misrepresentation, or material nondisclosure in	109
connection with an insurance transaction.	110
(C) To an insurance institution, agent, insurance support	111
organization, or self-insurer, provided the information	112
disclosed is limited to that which is reasonably necessary	113
either:	114
(1) To detect or prevent criminal activity, fraud,	115
material misrepresentation, or material nondisclosure in	116
connection with insurance transactions;	117
(2) For either the disclosing or receiving insurance	118
institution, agent, or insurance support organization to perform	119
its function in connection with an insurance transaction	120
involving the individual.	121
(D) To a medical care institution or medical professional	122
for the purpose of verifying insurance coverage or benefits,	123
informing an individual of a medical problem of which the	124
individual may not be aware, or conducting an operations or	125
services audit to verify the individuals treated by the medical	126
professional or at the medical care institution. However, only	127
such information may be disclosed as is reasonably necessary to	128
accomplish any of the purposes set forth in this division.	129
(E) To an insurance regulatory authority;	130

(F) To a law enforcement or other governmental authority	131
to protect the interests of the insurance institution, agent, or	132
insurance support organization in preventing or prosecuting the	133
perpetration of fraud upon it; or if the insurance institution,	134
agent or insurance support organization reasonably believes that	135
illegal activities have been conducted by the individual;	136
(G) As otherwise permitted or required by law;	137
(H) In response to a facially valid administrative or	138
judicial order, including a search warrant or subpoena;	139
(I) Made for the purpose of conducting actuarial or	140
research studies, provided the following conditions are met:	141
(1) No individual may be identified in any actuarial or	142
research report;	143
(2) Materials allowing the individual to be identified are	144
returned or destroyed as soon as they are no longer needed;	145
(3) The actuarial or research organization agrees not to	146
disclose the information unless the disclosure would otherwise	147
be permitted by this section if made by an insurance	148
institution, agent, or insurance support organization.	149
(J) To a party or representative of a party to a proposed	150
or consummated sale, transfer, merger, or consolidation of all	151
or part of the business of the insurance institution, agent, or	152
insurance support organization, provided the following	153
conditions are met:	154
(1) Prior to the consummation of the sale, transfer,	155
merger, or consolidation, only such information is disclosed as	156
is reasonably necessary to enable the recipient to make business	157
decisions about the purchase, transfer, merger, or	158

consolidation; 159

(2) The recipient agrees not to disclose the information, 160  
unless the disclosure would otherwise be permitted by this 161  
section if made by an insurance institution, agent, or insurance 162  
support organization. 163

(K) To a person whose only use of such information will be 164  
in connection with the marketing of a product or service, 165  
provided the following conditions are met: 166

(1) No medical record information, privileged information, 167  
or personal information relating to an individual's character, 168  
personal habits, mode of living, or general reputation is 169  
disclosed, and no classification derived from such information 170  
is disclosed; 171

(2) The individual has been given an opportunity to 172  
indicate that ~~he~~ the individual does not want personal 173  
information disclosed for marketing purposes and has given no 174  
indication that ~~he~~ the individual does not want the information 175  
disclosed; 176

(3) The person receiving such information agrees not to 177  
use it except in connection with the marketing of a product or 178  
service. 179

(L) To an affiliate whose only use of the information will 180  
be in connection with an audit of the insurance institution or 181  
agent or the marketing of an insurance product or service, 182  
provided the affiliate agrees not to disclose the information 183  
for any other purpose or to unaffiliated persons; 184

(M) By a consumer reporting agency, provided the 185  
disclosure is to a person other than an insurance institution or 186  
agent; 187

(N) To a group policyholder for the purpose of reporting 188  
claims experience or conducting an audit of the insurance 189  
institution's or agent's operations or services, provided the 190  
information disclosed is reasonably necessary for the group 191  
policyholder to conduct the review or audit; 192

(O) To a group policyholder as provided in section 3901.89 193  
of the Revised Code; 194

(P) To a professional peer review organization for the 195  
purpose of reviewing the service or conduct of a medical care 196  
institution or medical professional; 197

~~(P)~~(Q) To a governmental authority for the purpose of 198  
determining the individual's eligibility for health benefits for 199  
which the governmental authority may be liable; 200

~~(Q)~~(R) To a certificate holder or policyholder for the 201  
purpose of providing information regarding the status of an 202  
insurance transaction; 203

~~(R)~~(S) To a lienholder, mortgagee, assignee, lessor, or 204  
other person shown on the records of an insurance institution or 205  
agent as having a legal or beneficial interest in a policy of 206  
insurance, provided the following conditions are met: 207

(1) No medical record information is disclosed unless the 208  
disclosure would otherwise be permitted by this section; 209

(2) The information disclosed is limited to that which is 210  
reasonably necessary to permit such person to protect its 211  
interests in such policy. 212

**Section 2.** That existing section 3904.13 of the Revised 213  
Code is hereby repealed. 214

**Section 3.** Sections 1 and 2 of this act take effect 215

January 1, 2019.

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