

As Passed by the Senate

132nd General Assembly

Regular Session

2017-2018

Am. S. B. No. 227

Senator Huffman

**Cosponsors: Senators Coley, LaRose, Terhar, Beagle, Eklund, Hackett, Hoagland,
Manning, McColley, Peterson, Thomas**

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) "Full-time employee" means an employee working an 8
average of at least thirty hours of service per week during a 9
calendar month, or at least one hundred thirty hours of service 10
during the calendar month. 11

(2) "Group policyholder" means a policyholder for a health 12
insurance policy covering fifty or more full-time employees. 13
"Group policyholder" includes an authorized representative of a 14
group policyholder. 15

(3) "Health plan issuer" has the same meaning as in 16

section 3922.01 of the Revised Code. 17

(B) (1) A health plan issuer shall, upon request, release 18
to each group policyholder claims data and shall provide this 19
data within fourteen business days of receipt of the request. 20

(2) The data released shall include all of the following 21
with regard to the policy in question for the policy period 22
immediately preceding or the current policy period, as requested 23
by the policyholder: 24

(a) The net claims paid by month; 25

(b) (i) If the group policyholder is an employer, the 26
monthly enrollment by employee only, employee and spouse, and 27
employee and family; 28

(ii) If the group policyholder is not an employer, the 29
monthly enrollment shall be provided and organized in a relevant 30
manner. 31

(c) The amount of any claims reserve established by the 32
health plan issuer against future claims under the policy; 33

(d) Claims over ten thousand dollars, including claim 34
identifier other than name and the date of occurrence, the 35
amount paid toward each claim, which claims are unpaid or 36
outstanding, and claimant health condition or diagnosis; 37

(e) A complete listing of all potential catastrophic 38
diagnoses and prognoses involving persons covered under the 39
policy provisions. 40

(C) A health plan issuer that discloses data or 41
information in compliance with division (B) of this section may 42
condition any such disclosure upon the execution of an agreement 43
with the policyholder absolving the health plan issuer from 44

civil liability related to the use of such data or information. 45

(D) A health plan issuer that provides data or information 46
in compliance with division (B) of this section shall be immune 47
from civil liability for any acts or omissions of any person's 48
subsequent use of such data or information. 49

(E) This section shall not be construed as authorizing the 50
disclosure of the identity of a particular individual covered 51
under the group policy, nor the disclosure of any covered 52
individual's particular health insurance claim, condition, 53
diagnosis, or prognosis, which would violate federal or state 54
law. 55

(F) A group policyholder is entitled to receive protected 56
health information under this section only after an 57
appropriately authorized representative of the group 58
policyholder makes to the health plan issuer a certification 59
substantially similar to the following: 60

"I hereby certify and have demonstrated that the plan 61
documents comply with the requirements of 45 C.F.R. 164.504(f) 62
(2) and that the group policyholder will safeguard and limit the 63
use and disclosure of protected health information that the 64
policyholder may receive from the group health plan to perform 65
plan administration functions." 66

(G) A group policyholder that does not provide the 67
certification required in division (F) of this section is not 68
entitled to receive the protected health information described 69
in divisions (B) (2) (d) and (e) of this section, but is entitled 70
to receive a report of claim information that includes the other 71
information described under division (B) of this section. 72

(H) A health plan issuer that fails to comply with the 73

requirements of this section is deemed to have engaged in an 74
unfair and deceptive act or practice in the business of 75
insurance and is subject to sections 3901.19 to 3901.26 of the 76
Revised Code. 77

Sec. 3904.13. No insurance institution, agent, or 78
insurance support organization shall disclose any personal or 79
privileged information about an individual collected or received 80
in connection with an insurance transaction, unless the 81
disclosure is made pursuant to any of the following: 82

(A) With the written authorization of the individual, 83
provided: 84

(1) If such authorization is submitted by another 85
insurance institution, agent, or insurance support organization, 86
the authorization meets the requirements of section 3904.06 of 87
the Revised Code; 88

(2) If such authorization is submitted by a person other 89
than an insurance institution, agent, or insurance support 90
organization, the authorization is dated, signed by the 91
individual, and obtained one year or less prior to the date a 92
disclosure is sought under this division. 93

(B) To a person other than an insurance institution, 94
agent, or insurance support organization, provided such 95
disclosure is reasonably necessary for the following reasons: 96

(1) To enable such person to perform a business, 97
professional, or insurance function for the disclosing insurance 98
institution, agent, or insurance support organization, and such 99
person agrees not to disclose the information further without 100
the individual's written authorization unless the further 101
disclosure either: 102

(a) Would otherwise be permitted by this section if made	103
by an insurance institution, agent, or insurance support	104
organization;	105
(b) Is reasonably necessary for such person to perform its	106
<u>the person's</u> function for the disclosing insurance institution,	107
agent, or insurance support organization.	108
(2) To enable such person to provide information to the	109
disclosing insurance institution, agent, or insurance support	110
organization for the purpose of either:	111
(a) Determining an individual's eligibility for an	112
insurance benefit or payment;	113
(b) Detecting or preventing criminal activity, fraud,	114
material misrepresentation, or material nondisclosure in	115
connection with an insurance transaction.	116
(C) To an insurance institution, agent, insurance support	117
organization, or self-insurer, provided the information	118
disclosed is limited to that which is reasonably necessary	119
either:	120
(1) To detect or prevent criminal activity, fraud,	121
material misrepresentation, or material nondisclosure in	122
connection with insurance transactions;	123
(2) For either the disclosing or receiving insurance	124
institution, agent, or insurance support organization to perform	125
its function in connection with an insurance transaction	126
involving the individual.	127
(D) To a medical care institution or medical professional	128
for the purpose of verifying insurance coverage or benefits,	129
informing an individual of a medical problem of which the	130

individual may not be aware, or conducting an operations or 131
services audit to verify the individuals treated by the medical 132
professional or at the medical care institution. However, only 133
such information may be disclosed as is reasonably necessary to 134
accomplish any of the purposes set forth in this division. 135

(E) To an insurance regulatory authority; 136

(F) To a law enforcement or other governmental authority 137
to protect the interests of the insurance institution, agent, or 138
insurance support organization in preventing or prosecuting the 139
perpetration of fraud upon it; or if the insurance institution, 140
agent or insurance support organization reasonably believes that 141
illegal activities have been conducted by the individual; 142

(G) As otherwise permitted or required by law; 143

(H) In response to a facially valid administrative or 144
judicial order, including a search warrant or subpoena; 145

(I) Made for the purpose of conducting actuarial or 146
research studies, provided the following conditions are met: 147

(1) No individual may be identified in any actuarial or 148
research report; 149

(2) Materials allowing the individual to be identified are 150
returned or destroyed as soon as they are no longer needed; 151

(3) The actuarial or research organization agrees not to 152
disclose the information unless the disclosure would otherwise 153
be permitted by this section if made by an insurance 154
institution, agent, or insurance support organization. 155

(J) To a party or representative of a party to a proposed 156
or consummated sale, transfer, merger, or consolidation of all 157
or part of the business of the insurance institution, agent, or 158

insurance support organization, provided the following 159
conditions are met: 160

(1) Prior to the consummation of the sale, transfer, 161
merger, or consolidation, only such information is disclosed as 162
is reasonably necessary to enable the recipient to make business 163
decisions about the purchase, transfer, merger, or 164
consolidation; 165

(2) The recipient agrees not to disclose the information, 166
unless the disclosure would otherwise be permitted by this 167
section if made by an insurance institution, agent, or insurance 168
support organization. 169

(K) To a person whose only use of such information will be 170
in connection with the marketing of a product or service, 171
provided the following conditions are met: 172

(1) No medical record information, privileged information, 173
or personal information relating to an individual's character, 174
personal habits, mode of living, or general reputation is 175
disclosed, and no classification derived from such information 176
is disclosed; 177

(2) The individual has been given an opportunity to 178
indicate that ~~he~~ the individual does not want personal 179
information disclosed for marketing purposes and has given no 180
indication that ~~he~~ the individual does not want the information 181
disclosed; 182

(3) The person receiving such information agrees not to 183
use it except in connection with the marketing of a product or 184
service. 185

(L) To an affiliate whose only use of the information will 186
be in connection with an audit of the insurance institution or 187

agent or the marketing of an insurance product or service, 188
provided the affiliate agrees not to disclose the information 189
for any other purpose or to unaffiliated persons; 190

(M) By a consumer reporting agency, provided the 191
disclosure is to a person other than an insurance institution or 192
agent; 193

(N) To a group policyholder for the purpose of reporting 194
claims experience or conducting an audit of the insurance 195
institution's or agent's operations or services, provided the 196
information disclosed is reasonably necessary for the group 197
policyholder to conduct the review or audit; 198

(O) To a group policyholder as provided in section 3901.89 199
of the Revised Code; 200

(P) To a professional peer review organization for the 201
purpose of reviewing the service or conduct of a medical care 202
institution or medical professional; 203

~~(P)~~(Q) To a governmental authority for the purpose of 204
determining the individual's eligibility for health benefits for 205
which the governmental authority may be liable; 206

~~(Q)~~(R) To a certificate holder or policyholder for the 207
purpose of providing information regarding the status of an 208
insurance transaction; 209

~~(R)~~(S) To a lienholder, mortgagee, assignee, lessor, or 210
other person shown on the records of an insurance institution or 211
agent as having a legal or beneficial interest in a policy of 212
insurance, provided the following conditions are met: 213

(1) No medical record information is disclosed unless the 214
disclosure would otherwise be permitted by this section; 215

(2) The information disclosed is limited to that which is 216
reasonably necessary to permit such person to protect its 217
interests in such policy. 218

Section 2. That existing section 3904.13 of the Revised 219
Code is hereby repealed. 220

Section 3. Sections 1 and 2 of this act take effect 221
January 1, 2019. 222