

As Reported by the Committee of Conference

133rd General Assembly

Regular Session

2019-2020

Am. Sub. S. B. No. 9

Senator Huffman, M.

Cosponsors: Senators Terhar, Roegner, Eklund, Brenner, Hottinger, Antonio, Burke, Coley, Craig, Dolan, Gavarone, Hackett, Hill, Hoagland, Kunze, Lehner, Maharath, Manning, McColley, Obhof, O'Brien, Peterson, Rulli, Schuring, Thomas, Wilson, Yuko

Representatives Antani, Cupp, Dean, DeVitis, Edwards, Fraizer, Grendell, Hambley, Holmes, A., Patton, Perales, Reineke, Riedel, Roemer, Romanchuk, Scherer, Seitz, Stoltzfus, Wiggam

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) A health plan issuer shall, upon request, 18
release to each group policyholder monthly claims data and shall 19
provide this data within thirty business days of receipt of the 20
request. 21

(b) A health plan issuer shall not be required to release 22
claims information as required in division (B) (1) (a) of this 23
section more than once per calendar year per group policyholder. 24

(2) The data released shall include all of the following 25
with regard to the policy in question for the policy period 26
immediately preceding or the current policy period, as requested 27
by the policyholder: 28

(a) The net claims paid or incurred by month; 29

(b) (i) If the group policyholder is an employer, the 30
monthly enrollment data by employee only, employee and spouse, 31
and employee and family; 32

(ii) If the group policyholder is not an employer, the 33
monthly enrollment data shall be provided and organized in a 34
relevant manner. 35

(c) Monthly prescription claims information; 36

(d) Paid claims over thirty thousand dollars, including 37
claim identifier other than name and the date of occurrence, the 38
amount paid toward each claim, and claimant health condition or 39
diagnosis. 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, or 53
diagnosis, which would violate federal or state law. 54

(F) A group policyholder is entitled to receive protected 55
health information under this section only after an 56
appropriately authorized representative of the group 57
policyholder makes to the health plan issuer a certification 58
substantially similar to the following: 59

"I hereby certify and have demonstrated that the plan 60
documents comply with the requirements of 45 C.F.R. 164.504(f) 61
(2) and that the group policyholder will safeguard and limit the 62
use and disclosure of protected health information that the 63
policyholder may receive from the group health plan to perform 64
plan administration functions." 65

(G) A group policyholder that does not provide the 66
certification required in division (F) of this section is not 67
entitled to receive the protected health information described 68
in division (B) (2) (d) of this section, but is entitled to 69

receive a report of claim information that includes the other 70
information described under division (B) of this section. 71

(H) Committing a series of violations of this section 72
that, taken together, constitute a practice or pattern shall be 73
considered an unfair or deceptive practice under sections 74
3901.19 to 3901.26 of the Revised Code. 75

(I) Nothing in this section shall be construed as 76
prohibiting a health plan issuer from disclosing additional 77
claims information beyond what is required by this section. 78

Sec. 3904.13. No insurance institution, agent, or 79
insurance support organization shall disclose any personal or 80
privileged information about an individual collected or received 81
in connection with an insurance transaction, unless the 82
disclosure is made pursuant to any of the following: 83

(A) With the written authorization of the individual, 84
provided: 85

(1) If such authorization is submitted by another 86
insurance institution, agent, or insurance support organization, 87
the authorization meets the requirements of section 3904.06 of 88
the Revised Code; 89

(2) If such authorization is submitted by a person other 90
than an insurance institution, agent, or insurance support 91
organization, the authorization is dated, signed by the 92
individual, and obtained one year or less prior to the date a 93
disclosure is sought under this division. 94

(B) To a person other than an insurance institution, 95
agent, or insurance support organization, provided such 96
disclosure is reasonably necessary for the following reasons: 97

(1) To enable such person to perform a business,	98
professional, or insurance function for the disclosing insurance	99
institution, agent, or insurance support organization, and such	100
person agrees not to disclose the information further without	101
the individual's written authorization unless the further	102
disclosure either:	103
(a) Would otherwise be permitted by this section if made	104
by an insurance institution, agent, or insurance support	105
organization;	106
(b) Is reasonably necessary for such person to perform its	107
<u>the person's</u> function for the disclosing insurance institution,	108
agent, or insurance support organization.	109
(2) To enable such person to provide information to the	110
disclosing insurance institution, agent, or insurance support	111
organization for the purpose of either:	112
(a) Determining an individual's eligibility for an	113
insurance benefit or payment;	114
(b) Detecting or preventing criminal activity, fraud,	115
material misrepresentation, or material nondisclosure in	116
connection with an insurance transaction.	117
(C) To an insurance institution, agent, insurance support	118
organization, or self-insurer, provided the information	119
disclosed is limited to that which is reasonably necessary	120
either:	121
(1) To detect or prevent criminal activity, fraud,	122
material misrepresentation, or material nondisclosure in	123
connection with insurance transactions;	124
(2) For either the disclosing or receiving insurance	125

institution, agent, or insurance support organization to perform 126
its function in connection with an insurance transaction 127
involving the individual. 128

(D) To a medical care institution or medical professional 129
for the purpose of verifying insurance coverage or benefits, 130
informing an individual of a medical problem of which the 131
individual may not be aware, or conducting an operations or 132
services audit to verify the individuals treated by the medical 133
professional or at the medical care institution. However, only 134
such information may be disclosed as is reasonably necessary to 135
accomplish any of the purposes set forth in this division. 136

(E) To an insurance regulatory authority; 137

(F) To a law enforcement or other governmental authority 138
to protect the interests of the insurance institution, agent, or 139
insurance support organization in preventing or prosecuting the 140
perpetration of fraud upon it; or if the insurance institution, 141
agent or insurance support organization reasonably believes that 142
illegal activities have been conducted by the individual; 143

(G) As otherwise permitted or required by law; 144

(H) In response to a facially valid administrative or 145
judicial order, including a search warrant or subpoena; 146

(I) Made for the purpose of conducting actuarial or 147
research studies, provided the following conditions are met: 148

(1) No individual may be identified in any actuarial or 149
research report; 150

(2) Materials allowing the individual to be identified are 151
returned or destroyed as soon as they are no longer needed; 152

(3) The actuarial or research organization agrees not to 153

disclose the information unless the disclosure would otherwise 154
be permitted by this section if made by an insurance 155
institution, agent, or insurance support organization. 156

(J) To a party or representative of a party to a proposed 157
or consummated sale, transfer, merger, or consolidation of all 158
or part of the business of the insurance institution, agent, or 159
insurance support organization, provided the following 160
conditions are met: 161

(1) Prior to the consummation of the sale, transfer, 162
merger, or consolidation, only such information is disclosed as 163
is reasonably necessary to enable the recipient to make business 164
decisions about the purchase, transfer, merger, or 165
consolidation; 166

(2) The recipient agrees not to disclose the information, 167
unless the disclosure would otherwise be permitted by this 168
section if made by an insurance institution, agent, or insurance 169
support organization. 170

(K) To a person whose only use of such information will be 171
in connection with the marketing of a product or service, 172
provided the following conditions are met: 173

(1) No medical record information, privileged information, 174
or personal information relating to an individual's character, 175
personal habits, mode of living, or general reputation is 176
disclosed, and no classification derived from such information 177
is disclosed; 178

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

disclosed;	183
(3) The person receiving such information agrees not to	184
use it except in connection with the marketing of a product or	185
service.	186
(L) To an affiliate whose only use of the information will	187
be in connection with an audit of the insurance institution or	188
agent or the marketing of an insurance product or service,	189
provided the affiliate agrees not to disclose the information	190
for any other purpose or to unaffiliated persons;	191
(M) By a consumer reporting agency, provided the	192
disclosure is to a person other than an insurance institution or	193
agent;	194
(N) To a group policyholder for the purpose of reporting	195
claims experience or conducting an audit of the insurance	196
institution's or agent's operations or services, provided the	197
information disclosed is reasonably necessary for the group	198
policyholder to conduct the review or audit;	199
(O) <u>To a group policyholder as provided in section 3901.89</u>	200
<u>of the Revised Code;</u>	201
<u>(P)</u> To a professional peer review organization for the	202
purpose of reviewing the service or conduct of a medical care	203
institution or medical professional;	204
(P) <u>(Q)</u> To a governmental authority for the purpose of	205
determining the individual's eligibility for health benefits for	206
which the governmental authority may be liable;	207
(Q) <u>(R)</u> To a certificate holder or policyholder for the	208
purpose of providing information regarding the status of an	209
insurance transaction;	210

(R) <u>(S)</u> To a lienholder, mortgagee, assignee, lessor, or	211
other person shown on the records of an insurance institution or	212
agent as having a legal or beneficial interest in a policy of	213
insurance, provided the following conditions are met:	214
(1) No medical record information is disclosed unless the	215
disclosure would otherwise be permitted by this section;	216
(2) The information disclosed is limited to that which is	217
reasonably necessary to permit such person to protect its	218
interests in such policy.	219
Section 2. That existing section 3904.13 of the Revised	220
Code is hereby repealed.	221
Section 3. Section 3904.13 of the Revised Code, as amended	222
by this act, and section 3901.89 of the Revised Code, as enacted	223
by this act, take effect July 1, 2021.	224