

**As Introduced**

**133rd General Assembly  
Regular Session  
2019-2020**

**S. B. No. 9**

**Senator Huffman, M.**

**Cosponsors: Senators Terhar, Roegner, Eklund, Brenner**

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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) "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, release to each group policyholder monthly claims data and shall provide this data within thirty business days of receipt of the request. 18  
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(b) A health plan issuer shall not be required to release claims information as required in division (B) (1) (a) of this section more than once per calendar year per group policyholder. 22  
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(2) The data released shall include all of the following with regard to the policy in question for the policy period immediately preceding or the current policy period, as requested by the policyholder: 25  
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(a) The net claims paid or incurred by month; 29

(b) (i) If the group policyholder is an employer, the monthly enrollment data by employee only, employee and spouse, and employee and family; 30  
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(ii) If the group policyholder is not an employer, the monthly enrollment data shall be provided and organized in a relevant manner. 33  
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(c) Monthly prescription claims information; 36

(d) Paid claims over thirty thousand dollars, including claim identifier other than name and the date of occurrence, the amount paid toward each claim, and claimant health condition or diagnosis. 37  
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(C) A health plan issuer that discloses data or information in compliance with division (B) of this section may condition any such disclosure upon the execution of an agreement with the policyholder absolving the health plan issuer from civil liability related to the use of such data or information. 41  
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(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 by an insurance institution, agent, or insurance support organization;	104 105 106
(b) Is reasonably necessary for such person to perform <del>its</del> <u>the person's</u> function for the disclosing insurance institution, agent, or insurance support organization.	107 108 109
(2) To enable such person to provide information to the disclosing insurance institution, agent, or insurance support organization for the purpose of either:	110 111 112
(a) Determining an individual's eligibility for an insurance benefit or payment;	113 114
(b) Detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction.	115 116 117
(C) To an insurance institution, agent, insurance support organization, or self-insurer, provided the information disclosed is limited to that which is reasonably necessary either:	118 119 120 121
(1) To detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions;	122 123 124
(2) For either the disclosing or receiving insurance institution, agent, or insurance support organization to perform its function in connection with an insurance transaction involving the individual.	125 126 127 128
(D) To a medical care institution or medical professional for the purpose of verifying insurance coverage or benefits, informing an individual of a medical problem of which the	129 130 131

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
(P) 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
<del>(P)</del> -(Q) 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
<del>(Q)</del> -(R) To a certificate holder or policyholder for the	208
purpose of providing information regarding the status of an	209
insurance transaction;	210
<del>(R)</del> -(S) 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.** Sections 1 and 2 of this act take effect July 222  
1, 2020. 223