

As Reported by the Senate Insurance and Financial Institutions  
Committee

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S. B. No. 9

Senator Huffman, M.

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

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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, 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 <del>its</del>	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) To a group policyholder as provided in section 3901.89 200  
of the Revised Code; 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

~~(P)~~ (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

~~(Q)~~ (R) To a certificate holder or policyholder for the 208  
purpose of providing information regarding the status of an 209  
insurance transaction; 210

~~(R)~~ (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
<b>Section 2.</b> That existing section 3904.13 of the Revised	220
Code is hereby repealed.	221
<b>Section 3.</b> Sections 1 and 2 of this act take effect July	222
1, 2020.	223