

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 744  
Insurance Committee Substitute Adopted 6/9/11  
Third Edition Engrossed 6/9/11

Short Title: Transparency in the Cost of Health Care.

(Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW EMPLOYERS ACCESS TO INFORMATION ABOUT THEIR  
3 GROUP HEALTH PLANS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 50 of Chapter 58 of the General Statutes is amended by  
6 adding a new Part to read:

7 "Part 8. Reporting of Group Claims Information to Employers With Fifty-One or More  
8 Covered Employees.

9 **"§ 58-50-300. Definitions.**

10 The following definitions apply to this Part:

11 (1) Insurer. – Defined in G.S. 58-3-167(b).

12 (2) Protected Health Information. – Defined in the Health Insurance Portability  
13 and Accountability Act of 1996, Pub. L. No. 104-191, as amended.

14 **"§ 58-50-305. Access to information by employers.**

15 (a) An employer with 51 or more covered employees shall be entitled to a report of  
16 claim information from its insurer for its employee group health plan. The report shall include  
17 the following information for the 24 months prior to the employer's request if the request is  
18 made to the employer's current insurer or for the 12 months prior to the employer's request if  
19 the request is made to the employer's prior insurer, subject to the other provisions of this Part:

20 (1) Aggregate incurred claims experience by month, including claims  
21 experience for medical, dental, and pharmacy benefits, as applicable.

22 (2) Total premium paid by month.

23 (3) Total number of covered members on a monthly basis.

24 (4) A separate description and individual claims report for any individual whose  
25 total paid claims exceed twenty-five thousand dollars (\$25,000) during the  
26 12-month period preceding the date of the report, including the following  
27 information related to the claims for that individual:

28 a. A unique identifying number, characteristic, or code for the  
29 individual, so as not to identify the individual by name, social  
30 security number, subscriber or member identification number, policy  
31 number, or other information that could allow the employer to  
32 identify the individual.

33 b. The amounts paid.

34 c. Dates of service.

35 d. Primary procedure codes or diagnosis codes or both.



1        (b) In order to receive the information contained in subdivision (4) of subsection (a) of  
2 this section, an appropriately authorized representative of the employer must issue to the health  
3 care benefits provider a certification substantially similar to the following:

4                'I hereby certify that the plan documents comply with the requirements of 45  
5 C.F.R. § 164.504(f)(2) and that the employer will safeguard and limit the use  
6 and disclosure of protected health information that the employer may receive  
7 from the health care benefits provider only to perform plan administration  
8 functions.'

9        An insurer may use its own certification document as long as it references requirements of  
10 45 C.F.R. Section 164.504(f)(2).

11        (c) An employer shall be entitled to request and receive information under this Part up  
12 to one year following the termination of the contract with the health care benefits provider to  
13 provide health care benefits for the employer's employees.

14 **"§ 58-50-310. Provision of report by insurer.**

15        (a) Upon written request by an employer under G.S. 58-50-305, a health care benefits  
16 provider shall, within 30 business days of the completed request, provide the information  
17 required under G.S. 58-50-305 in one of the following forms:

18                (1) In a written report.

19                (2) Through an electronic file transmitted by secure electronic mail or a secure  
20 file transfer protocol site.

21                (3) By making the required information available through a secure Web site or  
22 Web portal accessible by the requesting employer.

23        (b) A health care benefits provider shall not disclose protected health information in a  
24 report of claim information provided under this Part if the health insurance issuer is prohibited  
25 from disclosing that information under another State or federal law that imposes more stringent  
26 privacy restrictions than those imposed under this Section, including, without limitation, the  
27 more stringent privacy restrictions imposed under the Health Insurance Portability and  
28 Accountability Act of 1996, Pub. L. No. 104-191, as amended. To withhold information in  
29 accordance with this subsection, the health insurance issuer must do all of the following:

30                (1) Notify the plan, plan sponsor, or plan administrator requesting the report that  
31 information is being withheld.

32                (2) Provide to the plan, plan sponsor, or plan administrator a list of categories of  
33 claim information that the health insurance issuer has determined are subject  
34 to the more stringent privacy restrictions under another State or federal law.

35        (c) An insurer shall not be required to provide a report to an employer more than once  
36 in a 12-month period.

37 **"§ 58-50-315. Applicability of Part to governmental entities; reports not public record.**

38        (a) A governmental entity that contracts with an insurer may request a report under this  
39 Part as an employer.

40        (b) A report of claim information provided under this Part to a governmental entity  
41 shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

42 **"§ 58-50-320. Compliance with Part does not create liability.**

43        An insurer that releases information, including protected health information, in accordance  
44 with this Part has not violated a standard of care and is not liable for civil damages resulting  
45 from, and is not subject to criminal prosecution for, releasing that information.

46 **"§ 58-50-325. Penalty for noncompliance.**

47        An insurer that does not comply with the provisions of this Part shall be subject to the  
48 provisions of G.S. 58-2-70."

49        **SECTION 2.** This act becomes effective January 1, 2012.