

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 749\*  
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Short Title: Medigap Insurance.

(Public)

Sponsors: Representatives Mills; Duncan, Perdue, Anderson, and Justus.

Referred to: Commerce.

March 20, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO REWRITE THE NORTH CAROLINA MEDICARE SUPPLEMENT  
3 INSURANCE MINIMUM STANDARDS ACT OF 1981 IN ORDER TO COMPLY  
4 WITH RECENT CHANGES IN FEDERAL LAW AND TO APPROPRIATE  
5 FUNDS THEREFOR.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 58 of the General Statutes is amended by adding a new  
8 Article to read:

9 **“ARTICLE 47.**

10 **“MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS.**

11 **“§ 58-710. Definitions.**

12 Unless the context clearly indicates otherwise, the following words, as used in this  
13 Article, have the following meanings:

14 (1) ‘Applicant’ means (i) in the case of an individual Medicare supplement  
15 policy or subscriber contract, the person who seeks to contract for  
16 insurance benefits; and (ii) in the case of a group Medicare supplement  
17 policy or subscriber contract, the proposed certificate holder.

18 (2) ‘Certificate’ means any certificate issued under a group Medicare  
19 supplement policy, which certificate has been delivered or issued for  
20 delivery in this State.

21 (3) ‘Insurer’ includes entities subject to Chapters 57 and 57B of the  
22 General Statutes.

1           (4) 'Medicare' means the 'Health Insurance for the Aged Act', Title XVIII  
2 of the Social Security Amendments of 1965, as then constituted or  
3 later amended.

4           (5) 'Policy' means a Medicare supplement policy, which is a group or  
5 individual policy of accident and health insurance under this Chapter, a  
6 subscriber contract under Chapter 57 of the General Statutes, or an  
7 evidence of coverage under Chapter 57B of the General Statutes, that  
8 is advertised, marketed, or designed primarily as a supplement to  
9 reimbursements under Medicare for the hospital, medical, or surgical  
10 expenses of persons eligible for Medicare by reason of age.

11 **"§ 58-711. Applicability and scope.**

12       (a) Except as otherwise specifically provided, this Article applies to:

13           (1) All policies delivered or issued for delivery in this State on or after the  
14 effective date of this Article; and

15           (2) All certificates issued under group policies that have been delivered or  
16 issued for delivery in this State on or after the effective date of this  
17 Article.

18       (b) This Article does not apply to an insurance contract of one or more employers  
19 or labor organizations, or of the trustees of a fund established by one or more employers  
20 or labor organizations, or combination thereof, for employees or former employees or a  
21 combination thereof, or for members or former members, or a combination thereof, of  
22 the labor organizations.

23       (c) This Article does not prohibit or apply to insurance contracts or health care  
24 benefit plans, including group conversion policies, that are provided to Medicare  
25 eligible persons and that are not marketed or held out to be Medicare supplement  
26 policies or benefit plans.

27 **"§ 58-712. Standards for policy provisions.**

28       (a) No policy in force in this State shall contain benefits that duplicate benefits  
29 provided by Medicare.

30       (b) The Commissioner shall adopt rules to establish specific standards for  
31 provisions of policies. Such standards shall be in addition to and in accordance with  
32 applicable State law. No requirement of State law relating to minimum required policy  
33 benefits, other than the minimum standards contained in this Article, applies to policies.  
34 The standards may include without limitation to: terms of renewability; initial and  
35 subsequent conditions of eligibility; nonduplication of coverage; probationary periods;  
36 benefit limitations, exceptions, and reductions; elimination periods; requirements for  
37 replacement; recurrent conditions; and definitions of terms.

38       (c) The Commissioner may adopt rules that specify prohibited policy provisions  
39 not otherwise specifically authorized by State law that, in the opinion of the  
40 Commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or  
41 proposed for coverage under a policy.

42       (d) Notwithstanding any other provision of State law, a policy may not deny a  
43 claim for losses incurred more than six months from the effective date of coverage for a  
44 preexisting condition. A policy may not define a preexisting condition more

1 restrictively than a condition for which medical advice was given or treatment was  
2 recommended by or received from a physician within six months before the effective  
3 date of coverage.

4 **"§ 58-713. Minimum standards for benefits and claims payments.**

5 The Commissioner shall adopt rules to establish minimum standards for benefits and  
6 claims payments under policies.

7 **"§ 58-714. Loss ratio standards and filing requirements.**

8 (a) Every insurer providing group Medicare supplement insurance benefits to a  
9 resident of this State pursuant to G.S. 58-711 shall file a copy of the master policy and  
10 any certificate used in this State in accordance with the filing requirements and  
11 procedures applicable to group policies issued in this State: Provided, however, that no  
12 insurer is required to make a filing earlier than 30 days after insurance is provided to a  
13 resident of this State under a master policy issued for delivery outside this State.

14 (b) Policies shall return to policyholders benefits that are reasonable in relation to  
15 the premium charged. The Commissioner shall adopt rules to establish minimum  
16 standards for loss ratios of policies on the basis of incurred claims experience, or  
17 incurred health care expenses where coverage is provided by a health maintenance  
18 organization on a service rather than reimbursement basis, and earned premiums in  
19 accordance with accepted actuarial principles and practices. Every insurer providing  
20 policies or certificates in this State shall annually file its rates, rating schedules, and  
21 supporting documentation to demonstrate that it is in compliance with the applicable  
22 loss ratio standards of this State. All filings of rates and rating schedules shall  
23 demonstrate that the actual and expected losses in relation to premiums comply with the  
24 requirements of this Article.

25 (c) No insurer shall provide compensation to its agents or other producers that is  
26 greater than the renewal compensation that would have been paid on an existing policy  
27 if the existing policy is replaced by another policy with the same insurer where the new  
28 policy benefits are substantially similar to the benefits under the old policy and the old  
29 policy was issued by the same insurer or insurer group.

30 **"§ 58-715. Disclosure standards.**

31 (a) In order to provide for full and fair disclosure in the sale of policies, no policy  
32 or certificate shall be delivered in this State unless an outline of coverage is delivered to  
33 the applicant at the time application is made.

34 (b) The Commissioner shall prescribe the format and content of the outline of  
35 coverage required by subsection (a) of this section. For purposes of this section,  
36 'format' means style, arrangement, and overall appearance, including such items as the  
37 size, color, and prominence of type and arrangement of text and captions. Such outline  
38 of coverage shall include:

- 39 (1) A description of the principal benefits and coverage provided in the  
40 policy;
- 41 (2) A statement of the exceptions, reductions, and limitations contained in  
42 the policy;
- 43 (3) A statement of the renewal provisions, including any reservation by  
44 the insurer of a right to change premiums; and

1           (4) A statement that the outline of coverage is a summary of the policy  
2           issued or applied for and that the policy should be consulted to  
3           determine governing contractual provisions.

4           (c) The Commissioner may prescribe by rule a standard form and the contents of  
5           an informational brochure for persons eligible for Medicare by reason of age, which is  
6           intended to improve the buyer's ability to select the most appropriate coverage and  
7           improve the buyer's understanding of Medicare. Except in the case of direct response  
8           insurance policies, the Commissioner may require by rule that the information brochure  
9           be provided to any prospective insured eligible for Medicare concurrently with delivery  
10          of the outline of coverage. With respect to direct response insurance policies, the  
11          Commissioner may require by rule that the prescribed brochure be provided upon  
12          request to any prospective insured eligible for Medicare by reason of age, but in no  
13          event later than the time of policy delivery.

14          (d) The Commissioner may adopt rules for captions or notice requirements,  
15          determined to be in the public interest and designed to inform prospective insureds that  
16          particular insurance coverages are not Medicare supplement coverages, for all accident  
17          and health insurance policies sold to persons eligible for Medicare by reason of age,  
18          other than: Medicare supplement policies; disability income policies; basic,  
19          catastrophic, or major medical expense policies; or single premium, nonrenewable  
20          policies.

21          (e) The Commissioner may further adopt rules to govern the full and fair  
22          disclosure of the information in connection with the replacement of accident and health  
23          insurance policies, subscriber contracts, or certificates by persons eligible for Medicare  
24          by reason of age.

25          **"§ 58-716. Notice of free examination.**

26          Policies or certificates shall have a notice prominently printed on the first page of the  
27          policy or certificate or attached thereon stating in substance that the applicant has the  
28          right to return the policy or certificate within 30 days of its delivery and to have the  
29          premium refunded if, after examination of the policy or certificate, the applicant is not  
30          satisfied for any reason. Any refund made pursuant to this section shall be paid directly  
31          to the applicant by the insurer in a timely manner.

32          **"§ 58-717. Filing requirements for advertising.**

33          Every insurer providing Medicare supplement insurance or benefits in this State  
34          shall provide a copy of any Medicare supplement advertisement intended for use in this  
35          State whether through written, radio, or television medium to the Commissioner for  
36          review or approval by the Commissioner.

37          **"§ 58-718. Penalties.**

38          In addition to any other applicable penalties for violations of this Chapter or  
39          Chapters 57 or 57B of the General Statutes, the Commissioner may require any person  
40          that has violated or is violating any provision of this Article or any rule adopted under  
41          this Article to either (i) cease marketing any policy or certificate in this State that is  
42          related directly or indirectly to a violation or (ii) take such actions as are necessary to  
43          comply with this Article or such rules."

44          Sec. 2. Article 27B of Chapter 58 of the General Statutes is repealed.

1           Sec. 3. There is appropriated from the General Fund to the Department of  
2 Insurance the sum of one hundred twenty-five thousand dollars (\$125,000) for fiscal  
3 year 1989-90 for the purpose of employing or retaining persons to administer the  
4 provisions of this act and for related working monies.

5           Sec. 4. This act is effective upon ratification.