

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 626*

Short Title: HIPAA Compliance and Fairness.-AB

(Public)

Sponsors: Senator Thomas.

Referred to: Commerce.

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO BRING NORTH CAROLINA LAW INTO COMPLIANCE WITH THE
2 FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY
3 ACT REGARDING THE TYPE OF COVERAGE THAT CONSTITUTES
4 CREDITABLE COVERAGE; TO PROVIDE SPECIAL ENROLLMENT
5 PERIODS WITHOUT PENALTY FOR PERSONS ENROLLED UNDER A
6 GROUP PLAN WHOSE COVERAGE IS TERMINATED WHEN AN INSURER
7 DISCONTINUES WRITING A CERTAIN TYPE OF GROUP HEALTH
8 INSURANCE COVERAGE THROUGHOUT THAT ENTIRE SMALL OR
9 LARGE GROUP MARKET; AND TO PROVIDE CONTINUED GUARANTEED
10 ISSUE RIGHTS TO A PERSON WHO IS HIPAA ELIGIBLE, WHO IS INSURED
11 IN THE INDIVIDUAL MARKET, AND WHOSE INSURER DISCONTINUES
12 WRITING A CERTAIN TYPE OF HEALTH INSURANCE COVERAGE
13 THROUGHOUT THE ENTIRE INDIVIDUAL MARKET.
14

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 58-68-30(c)(1) reads as rewritten:

17 "(c) Rules Relating to Crediting Previous Coverage. –

18 (1) Creditable coverage defined. – For the purposes of this Article,
19 "creditable coverage" means, with respect to an individual, coverage of
20 the individual under any of the following:

- 21 a. A self-funded employer group health plan under the Employee
22 Retirement Income Security Act of 1974.
- 23 b. Group or individual health insurance coverage.
- 24 c. Part A or part B of title XVIII of the Social Security Act.
- 25 d. Title XIX of the Social Security Act, other than coverage
26 consisting solely of benefits under section 1928.
- 27 e. Chapter 55 of title 10, United States Code.
- 28 f. A medical care program of the Indian Health Service or of a
29 tribal organization.

- 1 g. A State health benefits risk pool.
- 2 h. A health plan offered under chapter 89 of title 5, United States
- 3 Code.
- 4 i. A public health plan (as defined in federal regulations).
- 5 j. A health benefit plan under section 5(e) of the Peace Corps Act
- 6 (22 U.S.C. § 2504(e)).
- 7 k. The Health Insurance Program for Children established in Part
- 8 8 of Chapter 108A of the General Statutes, or any successor
- 9 program.

10 "Creditable coverage" does not include coverage consisting solely of
 11 coverage of excepted benefits. However, short-term limited-duration
 12 health insurance coverage shall be considered creditable coverage for
 13 purposes of this section and G.S. 58-51-15(a)(2)b."

14 **SECTION 2.** G.S. 58-68-30(f)(1) reads as rewritten:

15 "(f) Special Enrollment Periods. –

16 (1) Individuals losing other coverage. – A group health insurer shall
 17 permit an employee who is eligible, but not enrolled, for coverage
 18 under the terms of the plan (or a dependent of the employee if the
 19 dependent is eligible, but not enrolled, for coverage under the terms) to
 20 enroll for coverage under the terms of the plan if each of the following
 21 conditions is met:

- 22 a. The employee or dependent was covered under an ERISA
- 23 group health plan or had health insurance coverage at the time
- 24 coverage was previously offered to the employee or dependent.
- 25 b. The employee stated in writing at the time that coverage under
- 26 the group health plan or health insurance coverage was the
- 27 reason for declining enrollment, but only if the health insurer
- 28 required the statement at the time and provided the employee
- 29 with notice of the requirement and the consequences of the
- 30 requirement at the time.
- 31 c. The employee's or dependent's coverage described in
- 32 sub-subdivision a.: (i) was under a COBRA continuation
- 33 provision and the coverage under the provision was exhausted;
- 34 (ii) was not under that provision and either the coverage was
- 35 terminated because of loss of eligibility for the coverage,
- 36 including legal separation, divorce, death, termination of
- 37 employment, or reduction in the number of hours of
- 38 employment; ~~or~~ (iii) employer contributions toward the
- 39 coverage were ~~terminated~~ terminated; or (iv) was terminated by
- 40 the health insurer pursuant to G.S. 58-68-45(c)(2).
- 41 d. Under the terms of the plan, the employee requests the
- 42 enrollment not later than 30 days after the date of exhaustion of
- 43 coverage described in sub-subdivision c.(i) of this subdivision

1 or termination of coverage or employer contribution described
2 in sub-subdivision c.(ii) of this subdivision."

3 **SECTION 3.** G.S. 58-68-60 is amended by adding the following new
4 subsection to read:

5 "**§ 58-68-60. Guaranteed availability of individual health insurance coverage to**
6 **certain individuals with prior group coverage.**

7 ...

8 "(i) Rights of Replacement Coverage Upon Termination. – Subsection (a) of this
9 section shall apply to an eligible individual whose coverage issued pursuant to this
10 section is terminated by a health insurer pursuant to G.S. 58-68-65(c)(2) provided the
11 application for the replacement coverage is dated not more than 63 days following the
12 termination date."

13 **SECTION 4.** Sections 2 and 3 of this act become effective July 1, 2005, and
14 apply to policies or certificates issued or renewed on or after that date. The remainder of
15 this act is effective when it becomes law.