

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE DRS85137-LN-137A\* (3/9)**

Short Title: HIPAA Compliance and Fairness.-AB

(Public)

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Sponsors: Senator Thomas.

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Referred to:

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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.

- 1 f. A medical care program of the Indian Health Service or of a
- 2 tribal organization.
- 3 g. A State health benefits risk pool.
- 4 h. A health plan offered under chapter 89 of title 5, United States
- 5 Code.
- 6 i. A public health plan (as defined in federal regulations).
- 7 j. A health benefit plan under section 5(e) of the Peace Corps Act
- 8 (22 U.S.C. § 2504(e)).
- 9 k. The Health Insurance Program for Children established in Part
- 10 8 of Chapter 108A of the General Statutes, or any successor
- 11 program.

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

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

17 (f) Special Enrollment Periods. –

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

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

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

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

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

8 ...

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

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