

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 241
Insurance and Consumer Protection Committee Substitute Adopted 4/10/01

Short Title: Health Insurance Termination Notice.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO STRENGTHEN THE LAW MAKING IT A FELONY FOR AN
3 INSURANCE FIDUCIARY TO CAUSE TERMINATION OF GROUP HEALTH
4 OR LIFE INSURANCE COVERAGE BY NONPAYMENT OF PREMIUM
5 WITHOUT GIVING NOTICE TO MEMBERS OF THE GROUP.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-50-40 reads as rewritten:

8 "**§ 58-50-40. Willful failure to pay group insurance premiums; notice to persons**
9 **insured; penalty; restitution; examination of insurance transactions.**

10 (a) As used in this section and in G.S. 58-50-45, the term "group health
11 insurance" means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2)
12 any group insurance certificate or group subscriber contract issued by a hospital service
13 corporation pursuant to Articles 65 and 66 of this Chapter; (3) any health care plan
14 provided or arranged by a health maintenance organization pursuant to Article 67 of this
15 Chapter; ~~or~~(4) any multiple employer welfare arrangement as defined in ~~G.S. 58-49-~~
16 ~~30(a).~~ G.S. 58-49-30(a); or (5) a group health plan, as defined in section 607(1) of the
17 Employee Retirement Income Security Act of 1974.

18 As used in this section and in G.S. 58-50-45, the term "insurance fiduciary" means
19 any person, employer, principal, agent, trustee, or third party administrator, who is
20 responsible for the payment of group health or group life insurance premiums. As used
21 in this section and in G.S. 58-50-45, "premiums" includes contributions to a group
22 health plan or to a multiple employer welfare arrangement.

23 (b) No insurance fiduciary shall:

24 (1) Cause the cancellation or nonrenewal of group health or group life
25 insurance and the consequential loss of the coverages of the persons
26 insured by willfully failing to pay such premiums in accordance with
27 the terms of a group health or group life insurance contract; and

1 (2) Willfully fail to deliver, at least 45 days before the termination of such
2 insurance, to all persons covered by the group policy a written notice
3 of the insurance fiduciary's intention to stop payment of premiums.

4 (c) Any insurance fiduciary who violates subsection (b) of this section shall be
5 guilty of a Class ~~H~~ G felony.

6 (e) Upon conviction under subsection (c) of this section the court shall order the
7 insurance fiduciary to make full restitution to persons insured who incurred expenses
8 that would have been covered by the group health insurance or full restitution to
9 beneficiaries of the group life insurance for death benefits that would have been paid if
10 the coverage had not been terminated.

11 (f) Insurance fiduciaries subject to this section shall be subject to the provisions
12 of G.S. 58-2-200 with respect only to transactions involving group health or life
13 insurance.

14 (g) In the notice required by subsection (b) of this section, the insurance fiduciary
15 shall also notify those persons of their rights to health insurance conversion policies
16 under Article 53 of this Chapter and their rights ~~under the federal Consolidated~~
17 ~~Omnibus Budget Reconciliation Act (COBRA)~~ to purchase individual policies under
18 the federal Health Insurance Portability and Accountability Act (HIPAA) and Article 68
19 of this Chapter.

20 (h) In the event of the insolvency of an employer or insurance fiduciary who has
21 violated this section, any person specified in subsection (e) of this section shall have a
22 lien upon the assets of the employer or insurance fiduciary for the expenses or benefits
23 specified in subsection (e) of this section. With respect to personal property within the
24 estate of the insolvent employer or insurance fiduciary, the lien shall have priority over
25 unperfected security interests.

26 (i) Upon the termination of a group health insurance contract by the insurer, the
27 insurer shall notify every subscriber and certificate holder under the contract of the
28 termination of the contract along with the certification required to be provided under
29 G.S. 58-68-30(e)."

30 **SECTION 2.** G.S. 58-50-45 reads as rewritten:

31 "**§ 58-50-45. Group health or life insurers to notify insurance fiduciaries of**
32 **obligations.**

33 (a) ~~On and after January 1, 1986, upon~~ Upon the issuance or renewal of any
34 policy, contract, certificate, or evidence of coverage of group health or life insurance,
35 the insurer, corporation, or health maintenance organization shall give written notice to
36 the insurance fiduciary of the provisions of G.S. 58-50-40.

37 (b) The notice required by subsection (a) of this section shall be printed in 10
38 point type and shall read as follows:

39 "UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-50-40, NO
40 PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY
41 ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP
42 HEALTH OR LIFE INSURANCE OR GROUP HEALTH CARE PLAN PREMIUMS,
43 SHALL: (1) CAUSE THE CANCELLATION OR NONRENEWAL OF GROUP

1 HEALTH OR LIFE INSURANCE, HOSPITAL, MEDICAL, OR DENTAL SERVICE
2 CORPORATION PLAN, MULTIPLE EMPLOYER WELFARE ARRANGEMENT,
3 OR GROUP HEALTH CARE PLAN COVERAGES AND THE CONSEQUENTIAL
4 LOSS OF THE COVERAGES OF THE PERSONS INSURED, BY WILLFULLY
5 FAILING TO PAY SUCH THOSE PREMIUMS IN ACCORDANCE WITH THE
6 TERMS OF THE INSURANCE OR PLAN CONTRACT, AND (2) WILLFULLY
7 FAIL TO DELIVER, AT LEAST 45 DAYS PRIOR TO BEFORE THE
8 TERMINATION OF SUCH THOSE COVERAGES, TO ALL PERSONS COVERED
9 BY THE GROUP POLICY A WRITTEN NOTICE OF THE PERSON'S INTENTION
10 TO STOP PAYMENT OF PREMIUMS. THIS WRITTEN NOTICE MUST ALSO
11 CONTAIN A NOTICE TO ALL PERSONS COVERED BY THE GROUP POLICY
12 OF THEIR RIGHTS TO HEALTH INSURANCE CONVERSION POLICIES UNDER
13 ARTICLE 53 OF CHAPTER 58 OF THE GENERAL STATUTES CHAPTER 58 AND
14 THEIR RIGHTS TO PURCHASE INDIVIDUAL POLICIES UNDER THE FEDERAL
15 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA).
16 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AND
17 UNDER ARTICLE 68 OF CHAPTER 58 OF THE GENERAL STATUTES.
18 VIOLATION OF THIS LAW IS A FELONY. ANY PERSON VIOLATING THIS
19 LAW IS ALSO SUBJECT TO A COURT ORDER REQUIRING THE PERSON TO
20 COMPENSATE PERSONS INSURED FOR EXPENSES OR LOSSES INCURRED
21 AS A RESULT OF THE TERMINATION OF THE INSURANCE."

22 **SECTION 3.** This act is effective when it becomes law.