By: Duncan S.B. No. 1166

A BILL TO BE ENTITLED

AN ACT

relating to the reporting of claims information under certain health benefit plans; providing administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1215 to read as follows:

CHAPTER 1215. REPORTING OF CLAIMS INFORMATION

Sec. 1215.001. DEFINITIONS. In this chapter:

(1) "Employer" has the meaning assigned by 29 U.S.C. Section 1002(5).

(2) "Governmental entity" means a state agency or political subdivision of this state.

(3) "Group health plan" has the meaning assigned by 45 C.F.R. Section 160.103.

(4) "Health benefit plan issuer" means a health insurance issuer or a health maintenance organization.

(5) "Health insurance issuer" has the meaning assigned by 45 C.F.R. Section 160.103.

(6) "Health maintenance organization" has the meaning assigned by 45 C.F.R. Section 160.103.

(7) "Plan" means an employee welfare benefit plan as defined by 29 U.S.C. Section 1002(1).

(8) "Plan administrator" means an administrator as defined by 29 U.S.C. Section 1002(16)(A).

(9) "Plan sponsor" has the meaning assigned by 29 U.S.C. Section 1002(16)(B).

(10) "Political subdivision" means a county, municipality, school district, special-purpose district, or other subdivision of state government that has jurisdiction limited to a geographic portion of the state.

(11) "Protected health information" has the meaning assigned by 45 C.F.R. Section 160.103.

Sec. 1215.002. APPLICABILITY OF CHAPTER TO POLITICAL SUBDIVISIONS; APPLICABILITY OF OTHER LAW WITH REFERENCE TO POLITICAL SUBDIVISIONS. (a) This chapter applies to a governmental entity that enters into a contract with a health benefit plan issuer that results in the health benefit plan issuer delivering, issuing for delivery, or renewing a group health plan.

(b) For purposes of this chapter, a health benefit plan issuer shall treat a governmental entity described by Subsection (a) as a plan sponsor or plan administrator.

(c) A report of claim information provided under this section to a governmental entity is confidential and exempt from public disclosure under Chapter 552, Government Code.

Sec. 1215.003. RECEIPT OF AND RESPONSE TO REQUEST FOR CLAIM INFORMATION. (a) Not later than the 30th day after the date a health benefit plan issuer receives a written request for a written report of claim information from a plan, plan sponsor, or plan administrator, the health benefit plan issuer shall provide the requesting party the report, subject to Subsection (c).

(b) A report of claim information provided under Subsection

(a) must contain all information available to the health benefit plan issuer that is responsive to the request made under Subsection (a), including protected health information, for the 36-month period preceding the date of the request or for the entire period of coverage, whichever period is shorter. A report provided under Subsection (a) must include:

(1) aggregate paid claims experience by month, including claims experience for medical, dental, and pharmacy benefits, as applicable;

(2) total premium paid by month;

(3) total number of covered employees on a monthly basis by coverage tier, including whether coverage was for:

(A) an employee only;

(B) an employee with dependents only;

(C) an employee with a spouse only; or

(D) an employee with a spouse and dependents; and

(4) a separate description of any claim exceeding $10,000, including the following information related to the claim:

(A) a unique identifying number, characteristic, or code;

(B) the amounts paid;

(C) dates of service;

(D) applicable diagnosis codes; and

(E) prognosis or, if not available, case management notes, including any future expected costs and treatment plan, that relate to the claim.

(c) A plan sponsor is entitled to receive protected health

information under this section only after an appropriately authorized representative of the plan sponsor makes the following certification to the health benefit plan issuer:

"I hereby certify that the plan documents comply with the requirements of 45 C.F.R. Section 164.504(f)(2) and that the plan sponsor will safeguard and limit the use and disclosure of protected health information that the plan sponsor may receive from the group health plan to perform the plan administration functions."

(d) In the case of a request made under Subsection (a) after the date of termination of coverage, the report must contain all information available to the health benefit plan issuer as of the date of the request that is responsive to the request, including protected health information, and including the information described by Subsections (b)(1)-(4), for the 36-month period preceding the date of termination of coverage or for the entire policy period, whichever period is shorter.

(e) A report of claim information provided under Subsection (a) and described by Subsections (b)(1)-(4) or (d) must include the total dollar amount of claims pending as of the date of the report that were first filed during the 24-month period preceding the date of the request or for the entire period of coverage, whichever period is shorter.

(f) Not later than the 30th day after the date of termination of coverage under a group health plan, a health benefit plan issuer shall provide to a plan, plan sponsor, or plan administrator who makes a request under Subsection (a) before the

date of termination of coverage a supplemental written report of the information described by Subsections (b)(1)-(4) and (d), including protected health information, to update the report of claim information with information that was not included in the original report provided under Subsection (a).

(g) A plan, plan sponsor, or plan administrator must request a report under Subsection (a) before or on the second anniversary of the date of termination of coverage under a group health plan issued by the health benefit plan issuer.

Sec. 1215.004. USE OF INFORMATION BY CERTAIN PARTIES. A plan, plan sponsor, or plan administrator may use information in a written report of claim information provided under this chapter only as necessary to perform treatment, payment, or health care operations as those activities are described by 45 C.F.R. Section 164.501.

Sec. 1215.005. COMPLIANCE WITH CHAPTER DOES NOT CREATE LIABILITY. A health benefit plan issuer that releases information, including protected health information, in accordance with this chapter has not violated a standard of care and is not liable for civil damages resulting from, and is not subject to criminal prosecution for, releasing that information.

Sec. 1215.006. ADMINISTRATIVE PENALTIES. A health benefit plan issuer that does not comply with this chapter is subject to administrative penalties under Chapter 84.

SECTION 2. The following laws are repealed:

(1) Article 21.49-15, Insurance Code;

(2) Chapter 1209, Insurance Code; and

(3) Section 1501.614, Insurance Code.

SECTION 3. The change in law made by this Act applies only to a report of claim information that is requested on or after the effective date of this Act. A report of claim information that is requested before the effective date of this Act is governed by the law as it existed before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.