

HB 1089 -- Nonpublic Personal Health Information

Sponsor: Bishop

This bill prohibits the selling or any disclosure of nonpublic personal health information to a third party for the purpose of: (1) marketing a product or service; (2) making employment decisions; (3) determining credit worthiness; or (4) maliciously causing harm to the person. The bill does not apply in cases where the person cannot be identified from the information or when disclosure of this information is necessary to comply with any other law or court order. A person may provide written authorization for the disclosure of his or her information, which will be valid for two years. The bill exempts consumer reporting agencies, debt collectors, and businesses that are providing this information as part of the sale or merger of a business.

Insurance entities are deemed to be in compliance with the bill upon either: (1) demonstrating a good faith effort to comply with federal privacy rules; or (2) complying with model legislation adopted by the National Association of Insurance Commissioners.

The Department of Insurance will enforce the bill regarding insurance entities who may be sued for unfair trade practices. All other violators will be prosecuted by the state agency with primary regulatory authority over the person or, if there is none, the Attorney General. Persons in violation may be fined up to \$500 for each violation. These fines will be paid into the School Fund.

The provisions of the bill will become effective January 1, 2005.