

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1133 2nd Edition
SHORT TITLE: Health Insurance/Liability
SPONSOR(S): Reps. Hackney and Luebke

FISCAL IMPACT				
	Yes ()	No (X)	No Estimate Available (X)	
	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u> <u>FY 2003-04</u>
REVENUES				
EXPENDITURES				<i>No fiscal impact. No estimate available.</i>
POSITIONS:				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:				Judicial Branch
EFFECTIVE DATE:				July 1, 1999

BILL SUMMARY:

HEALTH INS./LIABILITY. TO PROVIDE THAT AN INSURER PROVIDING A HEALTH BENEFIT PLAN IS LIABLE FOR DAMAGES FOR HARM TO ITS INSUREDS OR ENROLLEES CAUSED BY THE INSURER'S FAILURE TO EXERCISE ORDINARY CARE. Enacts new GS 58-3-300 through 58-3-303, providing that each insurer or managed care entity for a health benefit plan has the duty to exercise ordinary care when making health care treatment decisions and is liable for damages for harm to an insured or enrollee proximately caused by its failure to do so. Provides detailed definitions of relevant terms. Also makes insurer or managed care entity liable for damages for harm proximately caused by health care treatment decisions made by its (1) agents or employees or (2) representatives over whom it has the right to exercise influence or control or has actually exercised influence or control that result in the failure to exercise ordinary care. Gives insurer or managed care entity a defense if (1) neither it nor an agent or employee for whom it is liable (as described above) controlled, influenced or participated in the health care treatment decision and (2) it did not deny or delay payment for any health care service or treatment prescribed or recommended by a physician or health care provider to the insured or enrolled person. Does not create liability on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its

employees or a pharmacy issued a permit by the NC Board of Pharmacy under GS Ch. 90. In an action under these provisions involving an insurer, on motion of any party the court must order a separate trial of any claim, cross claim, counterclaim, or third party claim against any physician or other health care provider. Makes conforming amendment to GS 1A-1, Rule 42. Act is effective when it becomes law and applies to causes of action arising on and after July 1, 1999. Source: Institute of Government, Daily Bulletin, April 15, 1999.

HEALTH INS./LIABILITY. Intro. 4/15/99. House committee substitute makes the following changes to 1st edition. Transfers substantive provisions of bill from GS 58 to GS 90 and makes conforming changes. Clarifies that an insurer or managed care entity is not liable for independent actions of a health care provider, and that a health care provider is not liable for independent actions of an insurer or managed care entity. Clarifies that no additional liability is imposed by act on physicians, and that an insurer or managed care entity is not entitled to contribution from a physician or health care provider unless it is a case of joint and several liability. Makes void and unenforceable any indemnity or hold harmless agreement between health insurers or managed care entities and a health care provider or employers for acts or conduct of the health insurer or managed care entity.

Source: Institute of Government, Daily Bulletin, April 23, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Fiscal Research Division believes there would be a minimal fiscal impact on the judicial system from this bill. A separate trial would be necessary upon the motion of any party to conduct a separate trial on claims, cross-claims, counterclaims, and third-party claims. Neither the Administrative Office of the Courts (AOC) nor the Fiscal Research Division are able to provide an estimate of the number of separate trials that would take place or the total cost of such separate trials. However, the Fiscal Research Division believes that the minimal impact could be absorbed with existing resources.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

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DATE: Tuesday, April 27, 1999



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