

Amendment to SB 431

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Statement of Intent. The purpose of this act is to clarify the applicability of existing New
4 Hampshire statutory requirements in light of the United States Supreme Court decision in *Gobeille*
5 *v. Liberty Mutual*, and to create a mechanism whereby self-funded employers affected by that
6 decision may choose to have their claims data included in their claims administrator's submission to
7 the New Hampshire comprehensive health information system. The data submission requirements
8 of RSA 420-G:11, IV and V as inserted by section 2 of this act are intended to facilitate the proper
9 functioning of insurance markets and to benefit insured consumers and employers through price
10 transparency that will increase competition and enable all consumers and employers to make
11 informed and cost-effective health care choices. Such market transparency, as a form of insurance
12 regulation, is intended to enhance and optimize market conditions affecting the risk pooling
13 arrangements between insurers and insureds.

14 2 New Paragraphs; Disclosures by Health Carriers, Third Party Administrators, and Other
15 Insurance Entities. Amend RSA 420-G:11 by inserting after paragraph III the following new
16 paragraphs:

17 IV. The data submission requirements of paragraphs II and II-a shall apply with respect to
18 claims data for all lives covered by a fully-insured health plan in any market in the state, by any
19 self-funded plan for state or municipal employees, including any plan maintained under RSA 5-B, to
20 any self-funded plan maintained by the university system of the state with respect to its employees
21 or its students, and to any self-funded student health benefit plan maintained by an institution of
22 higher education which provides 4-year bachelor's degree programs and graduate or professional
23 degree programs.

24 V. In addition to those lives listed in paragraph IV, the data submission requirements of
25 paragraphs II and II-a shall also apply to all health carriers, licensed third party administrators,
26 and any entity required to be registered with the commissioner pursuant to RSA 402-H with respect
27 to claims data for all lives covered by any other self-funded employer-sponsored plan, when the
28 employer has opted in writing to the submission of the data. The carrier or administrator shall
29 notify the employer of the employer's option to authorize submission of the data. The commissioner
30 shall adopt rules under RSA 541-A specifying the form of such opt in, which shall include, but not
31 be limited to, notice to the employer regarding why it is receiving the notification form, the privacy
32 protections for the data submitted should the employer choose to opt in, and the transparency

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1 benefits, including benefits to employers, of broad inclusion of as many lives as possible in the
2 database created under RSA 420-G:11-a. Nothing in this paragraph shall be construed to impose
3 any reporting obligation on any self-funded employer or plan sponsor, or to impose any requirement
4 with respect to the manner in which any such self-funded plan is administered. Nothing in this
5 paragraph shall prevent a health carrier or third party administrator from communicating its views
6 to an employer about the employer's decision whether to opt in to the submission of claims data.

7 3 Effective Date. This act shall take effect upon its passage.