

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

S

D

SENATE BILL 86  
Health Care Committee Substitute Adopted 3/7/19  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S86-PCS35311-BC-61

Short Title: Small Business Health Care Act.

(Public)

Sponsors:

Referred to:

February 20, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding a new Article  
5 to read:

6 "Article 50A.

7 "Association Health Plans.

8 **"§ 58-50A-1. Definitions.**

9 (a) Association Health Plan. – A fully insured group health insurance policy that is  
10 sponsored by a sponsoring association and offered or sold to members of the sponsoring  
11 association to provide health benefits, as permitted under the Employee Retirement Income  
12 Security Act of 1974, its implementing regulations, and this Chapter.

13 (b) Employer Member. – A sole proprietorship, or an individual or entity employing at  
14 least one person, which is a member of a sponsoring association.

15 (c) Sponsoring Association. – An association comprised of one or more employer  
16 members that provides an association health plan to its employer members. Provided that it meets  
17 the other requirements of this Article, a sponsoring association shall be treated as an employer of  
18 a single group health plan under the Employee Retirement Income Security Act of 1974, its  
19 implementing regulations, and this Chapter.

20 **"§ 58-50A-5. Compliance with requirements.**

21 Regardless of the domicile of the sponsoring association receiving the policy, no association  
22 health plan shall be delivered or issued for delivery in this State unless it complies with the  
23 requirements of this Chapter. Nothing in this Article shall be interpreted to regulate or prohibit  
24 any group health insurance policy that is not an association health plan as defined in  
25 G.S. 58-50A-1(a).

26 **"§ 58-50A-10. Sponsoring association requirements.**

27 (a) No insurer shall deliver or issue for delivery an association health plan to a sponsoring  
28 association unless that sponsoring association meets all of the following requirements:

29 (1) Be an employer within the definition of section 3(5) of the Employee  
30 Retirement Income Security Act of 1974 and its implementing regulations.

31 (2) Have a constitution or bylaws that provides for all of the following:

32 a. Regular meetings.

33 b. Collection of dues from members.



\* S 8 6 - P C S 3 5 3 1 1 - B C - 6 1 \*

1           c.     Operation by a board of trustees that consists of an owner, partner,  
2                 officer, director, or employee of at least one of the employer members  
3                 of the association.

4           (3)    Have at least one substantial business purpose unrelated to the offering and  
5                 providing of health insurance or other employee benefits to its employer  
6                 members and their employees.

7           (4)    Have registered as a multiple employer welfare arrangement with the  
8                 Commissioner.

9           (5)    Have a commonality of interest shared among the employer members based  
10                on either of the following:

11           a.     Establishment by employer members in the same trade, industry, line  
12                 of business, or profession.

13           b.     Establishment by employer members as a statewide association in an  
14                 area that does not exceed the boundaries of the State.

15    **"§ 58-50A-15. Membership requirements.**

16           (a)    In order to obtain coverage under an association health plan, an employer member  
17                 must be a member of the sponsoring association and either be domiciled in this State, have a  
18                 principal headquarters or principal administrative office in this State, or be licensed by the State  
19                 licensing agency for the employer member's industry, trade, or profession.

20           (b)    Each employer member that obtains coverage under an association health plan may  
21                 only provide coverage to the following:

22                (1)    Eligible employees of the employer member as defined in G.S. 58-51-80(c).

23                (2)    Individuals the employer member pays on an IRS Form 1099.

24                (3)    The spouse or dependent children of any individual identified in subdivision  
25                 (1) or (2) of subsection (b) of this section.

26           (c)    In order to obtain coverage under an association health plan, employer members must  
27                 commit to remaining members of the sponsoring association and receiving and paying for  
28                 benefits under the association health plan for a period of at least two years.

29    **"§ 58-50A-20. Association health plan requirements.**

30           (a)    Any association health plan delivered or issued for delivery must meet all of the  
31                 following requirements:

32                (1)    Neither be offered nor advertised to the public generally.

33                (2)    Provide a level of coverage equal to or greater than sixty percent (60%) of the  
34                 actuarial value of allowed costs for covered benefits.

35                (3)    Provide coverage for hospital and physician services.

36                (4)    Comply with the provisions of G.S. 58-3-150.

37                (5)    Provide coverage for the essential health benefits listed in 42 U.S.C. §  
38                 18022(b).

39    **"§ 58-50A-25. Solvency requirements.**

40           (a)    No association health plan shall be delivered or issued for delivery to a sponsoring  
41                 association unless the sponsoring association meets all of the following solvency requirements:

42                (1)    Have been established and maintained in good faith for a period of at least  
43                 five years.

44                (2)    Have at the outset a minimum of 500 persons eligible to receive coverage  
45                 through the association health plan.

46                (3)    Enforce provisions that are intended to prevent or deter employer members  
47                 from terminating coverage under the association health plan prior to the end  
48                 of the coverage period required under the association health plan's  
49                 membership requirements. These provisions may include levying fines or  
50                 assessments and requiring employer members to provide proof of coverage

1 through another health insurance policy before terminating coverage through  
2 the association health plan.

3 (4) Maintain a minimum net worth equal to at least one month's premium, which  
4 must be held in trust and separate from the sponsoring association's operating  
5 assets.

6 (5) Maintain at all times an adequate plan for protection against insolvency that  
7 is acceptable to the Commissioner.

8 **"§ 58-50A-30. Nondiscrimination.**

9 (a) No association health plan or sponsoring association may condition eligibility for  
10 coverage, including continuing eligibility for coverage, on any of the following health-status  
11 factors:

12 (1) Health status.

13 (2) Medical condition, including both physical and mental illness.

14 (3) Claims experience.

15 (4) Receipt of health care.

16 (5) Medical history.

17 (6) Genetic information.

18 (7) Evidence of insurability.

19 (8) Disability.

20 (b) An association health plan or sponsoring association may make rating distinctions  
21 among its employer members based on factors other than health-status factors, such as industry,  
22 occupation, or geography, provided that the rating distinction is not directed at individual  
23 beneficiaries or based on a factor listed in subsection (a) of this section.

24 (c) No association health plan may impose limitations based on preexisting conditions.

25 (d) This section shall not be construed to require an association health plan to provide  
26 particular benefits other than those provided under the terms of the plan, or otherwise required  
27 by law, or to prevent the plan from establishing limitations or restrictions on the amount, level,  
28 extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan.

29 **"§ 58-50A-35. Premium contributions.**

30 (a) An association health plan or sponsoring association shall not require any individual,  
31 as a condition of initial enrollment or continued enrollment in the plan, to pay a premium or  
32 contribution that is greater than the premium or contribution for a similarly situated individual  
33 enrolled in the plan on the basis of any health status-related factor in relation to the individual or  
34 to an individual enrolled in the plan as a dependent of the individual.

35 (b) Nothing in this section shall be construed to restrict the amount an insurer may charge  
36 for coverage under an association health plan or to prevent an insurer from establishing premium  
37 discounts or modifying otherwise applicable co-payments or deductibles for an association health  
38 plan in return for adherence to programs of health promotion and disease prevention.

39 **"§ 58-50A-40. Use of licensed agents and brokers.**

40 Nothing in this Article shall preclude a sponsoring association from engaging a broker or  
41 agent licensed to sell insurance in this State for the purposes of reviewing and considering any  
42 association health plan."

43 **SECTION 2.** This act becomes effective January 1, 2020, and applies to contracts  
44 entered into, amended, or renewed on or after that date.