

# North Carolina

North Carolina Insurance Commission  
P.O. Box 26267  
Raleigh, NC 27611  
(919) 733-2004

## Summary of Important Regulations

MEWA Regulations .....	Yes
TPA Regulations .....	Yes
Stop-Loss Regulations .....	No
UR Regulations .....	Yes

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	N.C. Admin. Code tit. 11 ch. 11F.0201 to 11F.0208	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	N.C. Gen. Stat. §§ 58-3-171 to 58-3-172; N.C. Admin. Code tit. 11 ch. 12 § .0560; §§ .1501 to .1509
Small Employer Health Insurance Availability Model Law	None	N.C. Gen. Stat. §§ 58-50-100 to 58-50-150; §§ 58-68-25 to 58-68-75
Model Regulation To Eliminate Unfair Sex Discrimination	N.C. Admin. Code tit. 11 ch. 4 § 0317	None
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	None	N.C. Gen. Stat. §§ 58-50-50 to 58-50-56
Utilization Review Model Law	None	N.C. Gen. Stat. §§ 58-50-60 to 58-50-61; N.C. Admin. Code tit. 11 ch. 12.0901 to 12.0917
Managed Care Plan Network Adequacy Model Law	None	N.C. Admin. Code tit. 11 ch. 20 §§ .0201 to .0304
Third Party Administrator Law	N.C. Gen. Stat. §§ 58-56-2 to 58-56-66	N.C. Admin. Code tit. 11 ch. 21 §§ 0101 to 0110; N.C. Gen Stat. §§ 58-47-150 to 58-47-205;

Stop-loss Insurance Model Law	None	58-47-210 to 58-47-220 None
-------------------------------	------	--------------------------------

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	N.C. Gen. Stat. §§ 58-49-1 to 58-49-25	None
Standard Group Health Model Law	N.C. Gen. Stat. §§ 58-51-80 to 58-51-85	None
Group Health Insurance Mandatory Conversion Law	N.C. Gen. Stat. §§ 58-53-45 to 58-53-115	None
Group Coverage Discontinuance/ Replacement Model Regulation	None	N.C. Gen. Stat. § 58-51-110
Premium Rates and Renewability of Coverage-Small Groups	None	N.C. Gen. Stat. §§ 58-50-100 to 58-50-150
Group Coordination of Benefits Model Law	N.C. Admin. Code tit. 11 ch. 12 § .0514	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	N.C. Gen. Stat. §§ 58-51-58, 58-65-93,58-67-77,58-50-156
Group Health Mandatory Drug/ Alcohol Dependency Law	None	N.C. Gen. Stat. §§ 58-51-50 to 58-51-55
Model Newborn Children's Law	None	N.C. Gen. Stat. § 58-51-30

Health Examination Benefits Availability Law	None	None
---	------	------

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	None
Agents and Brokers Licensing Model Law	See pg 218-15	None
MEWA Licensing Model Law	None	None
Managing General Agents Law	N.C. Gen. Laws § 58-34-2	None
Health Maintenance Organization Model Law	N.C. Gen. Stat. §§ 58-67-1 to 58-67-185	N.C. Admin. Code tit. 11 ch. .1401 to .1404
Insurance Information and Privacy Protection Law	N.C. Gen. Stat. §§ 58-39-1 to 58-39-120	None
Unfair Trade Practices Law	N.C. Gen. Stat. §§ 58-63-1 to 58-63-60	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	N.C. Gen. Stat. § 58-68-35
Model Regulation on Unfair Discrimination in Life and Health	N.C. Gen. Stat. § 58-3-25	None

Insurance on the Basics of  
Total or Partial Blindness

## NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	N.C. Gen. Stat. § 58-68-35
Unfair Claims Settlement Practices Law	N.C. Gen. Stat. § 58-63-15	None
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	N.C. Gen. Stat. §§ 58-47-60 to 58-47-140; N.C. Admin. Code tit. 11 ch. 11(B) §§ .0601 to .0615
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	N.C. Admin. Code tit. 11 ch. 11(B) §§ .0601 to .0615
Twenty Four Hour Coverage Pilot Project Model Law	None	None

## State-Mandates

### **Benefits That Must Be Covered**

- Bone mass measurement
- Breast reconstruction
- Cervical cancer screening (pap smear)
- Cleft palate
- Clinical trials
- Colorectal cancer screening
- Complications of pregnancy
- Contraceptives
- Dental anesthesia
- Diabetic supplies, education
- Emergency services
- Hearing screening for children (newborns only)
- Mammography screening
- Minimum mastectomy stays
- Minimum maternity stays
- Off-label drug use (cancer patients only)
- Prescription drugs (medically necessary nonformulary)
- Prostate cancer screening
- TMJ disorders

### **Benefits That Must Be Offered**

- Substance abuse treatment

### **Persons Who Must Be Allowed Coverage**

- Adopted children
- Continuation/dependents
- Conversion to non-group
- Foster children
- Handicapped dependents
- Newborns

### **Providers Who Must Be Covered**

- Chiropractors
- Dentists
- Nurses
- Optometrists
- Podiatrists
- Psychologists
- Social Workers

**Coordination of Benefits**

- Birthday Rule? Yes
- Divorced/Separated Rule? Yes
- Joint Custody Rule? No
- Longer v. Shorter Rule? Yes
- Managed Care Rule? Yes
- COBRA Rule? No
- Preservation Rule? Yes

**Patient's Bill of Rights Legislation**

None

**High Risk Health Pool**

None

**External Grievance System**

None

**Prompt Payment of Health Claim Requirement**

Yes - 30 days

**Miscellaneous**

- Group policies must cover all necessary treatment and care needed by individuals born with cleft lip or cleft palate. North Carolina requires that all third party providers of health care benefits (health insurers, HMOs, and self-funders) provide coverage for diabetes outpatient self-treatment education and coverage for necessary supplies for insulin administration and glucose monitoring.
- North Carolina requires insurers to provide for emergency services necessary to stabilize a covered individual without regard to prior authorization.

## **MEWA Regulation**

Principal features of the North Carolina MEWA statute<sup>1</sup> are as follows:

- An out-of-state MEWA that solicits a North Carolina employer is covered by the statute. A North Carolina-sited MEWA which has no North Carolina employers, nor solicits any, is covered also.

- Annual registration is required. Insurer-sponsored MEWAs may, in lieu of registration, have information furnished to the Commissioner as may be required. An insured MEWA in North Carolina must be with a North Carolina licensed insurer.
- Annual reports (IRS/DOL 5500) must be filed also with the North Carolina Commissioner. Failure to do so will subject MEWA to penalties of N.C.G.S. § 52-2-180.
- Certain North Carolina mandates normally applicable only to fully insured plans must apply to MEWAs:
  1. Thirty-day notice requirement. N.C.G.S. § 58-50-40.
  2. Notice to fiduciaries of obligations. N.C.G.S. § 58-50-45.
- Special TPA rules apply to those administering a MEWA.

The Commissioner has the authority to appoint an industry study committee. See N.C.G.S. § 58-20-30(9).

By Department letter, the North Carolina Insurance Department has alerted licensed North Carolina agents and brokers of their financial peril should they sell any unlicensed or unregistered MEWA.

It is of interest to note that North Carolina does not get into the direct regulation of MEWAs as does Virginia or Florida by mandating actuarial certifications, audited statements, evidence of stop-loss, etc. North Carolina only requires registration.

## TPA Regulations

The state of North Carolina adopted a variation of the NAIC model TPA registration statute in 1989.<sup>2</sup> The North Carolina statute departs from the NAIC model statute in these significant ways:

- North Carolina specifies life, health, and annuity coverage by those specified in its statute, N.C.G.S. §§ 58-7-15(1) through 58-15(3).
- North Carolina specifies that self-funded plans are included: also, the marginal arrangements of dental, vision, drug, etc., are also included.
- North Carolina elected to not include the model statute language as regards *waiver of requirements* when certain conditions are met.
- The model law has no provision for a bond; North Carolina has a \$100,000 fidelity bond requirement.
- North Carolina language of *person* includes a corporation, partnership, or sole proprietorship.
- Dollar penalty of model law replaced with the statutory penalty of N.C.G.S. § 58-2-70.
- North Carolina gives the Commission authority to appoint a committee on TPAs as provided by N.C.G.S. § 58-2-30. Such committee has been appointed.
- North Carolina has special TPA authority where the subject of administration is a MEWA.
  1. Each MEWA registration carries a \$100 filing fee.
  2. Rules will require a bond, E & O, deposits, etc., as determined by the Commissioner.

Compliance. The filing papers provided by the North Carolina Insurance Department indicate the items needed to obtain a license. These comments or observations are helpful:

Certain arrangements are prohibited.

- Freshly signed resumes are needed each filing year.
- Samples of the TPA-employer or TPA-insurer administrative agreements are reviewed
- Commentary on internal control and methodology in handling the monies is requested so that

reviewers may discern any possible loss dangers.

- Narrative of the TPA’s operations (single plans, MEWAs, pension-insured plans, etc.) is required. The TPA’s financials must be either reviewed, certified or compiled; they need not be audited.
- E & O coverage is required as determined by the Commissioner. To date, no Department regulations dealing with the E& O have been issued.
- Bonding requirements have been as follows:
 

1986-1989 .....	\$100,000 fidelity favoring the TPA
1989-1990 .....	\$!00,000 surety favoring the Department
1990- .....	\$100,000 fidelity favoring the TPA

## Stop-Loss Regulation

No regulation is reported.

## Utilization Review Regulations

Agency Responsible <sup>3</sup> .....	Dept. of Insurance
Requirements .....	Registration-Certification
Exemptions .....	ERISA plan
Waivers .....	None

## Miscellaneous

### Small Group Reform<sup>4</sup>

If an employer has at least three, but no more than 25 employees who each work 30 or more hours per week, it may subscribe to any of the basic or standard health care plans approved for issuance to small employers by the state’s Insurance Commissioner.

A small employer carrier committee will recommend for the state Insurance Commissioner’s approval for (1) a basic health care plan and (2) a standard health care plan, either of which a carrier may offer in the form of insurance or a HMO. The recommendations will specify benefit levels, cost-sharing, exclusions, and limitations and must give due consideration to cost-effective and life-saving services, but they need not provide coverage of otherwise *mandated* benefits or providers. The plans may include such cost containment features as preferred provider arrangements, utilization review procedures, and case management benefit alternatives.

With limited exception, carriers that choose to offer such small employer plans must accept associations for a play from any qualifying small employer, although they may impose uniform premium payment security provisions to address the potential credit risk of small employers. Among the exceptions is a provision that permits a carrier to reject employers with fewer than five eligible employees where the carrier’s small employer plans do not limit coverage of pre-existing conditions. Other exceptions permit a carrier to reject small employer’s application when acceptance would result in a duplication of coverage with another plan or in the

carrier being declared an impaired insurer.

The small employer plans may be offered by either carriers that individually assume the risk of engaging in such business or by carriers that share the risk with other members of a reinsurance pool.

### **MSA Legislation**<sup>9</sup>

No action.

### **State Premium Taxes**

Commercial insurers are taxed at 1.9%; Blue Cross at .5%; HMOs at 0%.

### **Continuation of Coverage and Conversion of Benefits**

North Carolina continuation coverage lasts for up to three months, while COBRA continuation coverage generally lasts for up to 18 months or 36 months. Also, North Carolina continuation coverage terminates once a qualified individual becomes eligible for other coverage. COBRA continuation coverage is not terminated due to a qualified beneficiary's eligibility for coverage; such beneficiary must actually be covered under another employer's group health plan. Under North Carolina law, continuation coverage does not apply to dental, vision, or prescription drug benefits. Such benefits are covered under COBRA continuation coverage. Under COBRA, dental and vision benefits are generally noncore benefits and prescription drug benefits would be included as core benefits. To elect continuation coverage under North Carolina law, the initial premium must be paid before group coverage actually terminates. Under COBRA, there are specific rules governing payment of premiums.

### **Managed Care**

North Carolina established a system of comprehensive regulation of the utilization review industry, including state certification and confidentiality requirements, minimum operational standards, appeals procedures, and penalties for non-compliance.

North Carolina limits PPOs to a 20% price differential between in-network and out-of-network providers.

North Carolina requires the TPA to notify the Insurance Commissioner that each review entity with which the TPA contracts services meets the minimum requirements set out by the regulations.

## Endnotes

<sup>1</sup> N.C. Admin. Code tit. 1, Rule § 12.0514(1989).

<sup>2</sup> N.C. Gen. Stat. §§ 58-66-1 *et seq.*

<sup>3</sup> N.C. Gen. Stat. § 58-50-60; N.C. Admin. Code tit. 11 §§ 12.0903 *et seq.*

<sup>4</sup> N.C. Gen. Stat. §§ 58-50-100 to 58-50-135.