



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0174

Introduced 1/30/2019, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

New Act
215 ILCS 5/352

from Ch. 73, par. 964

Creates the In-Office Membership Care Act. Provides the requirements for an in-office membership care agreement between a primary care provider and patient. Provides where in-office membership care services may be provided. Provides that an in-office membership care agreement is not subject to the Illinois Insurance Code and that services provided under an in-office membership care agreement shall not be submitted to an insurer for payment. Provides a disclaimer each in-office membership care agreement shall include concerning not providing health insurance coverage. Provides restrictions on the transfer of an in-office membership care agreement. Provides that the Act does not prohibit health care providers who are not primary care providers from entering into agreements with patients. Makes conforming changes in the Illinois Insurance Code. Effective immediately.

LRB101 04949 SMS 49958 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 In-Office Membership Care Act.

6 Section 5. Public policy. It is the policy of the State of
7 Illinois to promote personal responsibility for health care and
8 the cost-effective delivery of medical and dental services by
9 encouraging innovative use of in-office membership care
10 practices for primary medical care. In-office membership care
11 practices utilize a model of periodic fees for provider access
12 and management over time, rather than simply a fee for visit or
13 procedure service model. Some patients and individual primary
14 care providers may wish to establish direct agreements with one
15 another as an alternative to traditional fee-for-service care
16 financed through health insurance. The purpose of this Act is
17 to confirm that in-office membership care agreements that
18 satisfy the provisions of this Act do not constitute insurance
19 and as such are not subject to the Illinois Insurance Code.

20 Section 10. Definitions. In this Act:

21 "Direct fee" means an agreed-upon fee charged by a primary
22 care provider as consideration for providing and being

1 available to provide in-office membership care services
2 described in an in-office membership care agreement.

3 "In-office membership care agreement" means a written
4 contract between a primary care provider or group of providers
5 and an individual patient, the patient's family, or the
6 patient's representative in which the primary care provider
7 agrees to provide in-office membership care services to the
8 patient over a specified period of time for payment of a direct
9 fee.

10 "In-office membership care services" means services that a
11 primary care provider is licensed or otherwise legally
12 authorized to provide, including, but not limited to, (i)
13 screening, assessment, diagnosis, and treatment for the
14 purpose of promoting health; (ii) detection, management, and
15 care of disease or injury; and (iii) routine preventive or
16 diagnostic dental treatment.

17 "Patient" means a person who is entitled to receive
18 in-office membership care services under an in-office
19 membership care agreement.

20 "Primary care provider" means a natural person or persons
21 licensed or otherwise legally authorized to provide health care
22 services in the State of Illinois in the field of pediatrics,
23 family medicine, internal medicine, or dentistry who provides
24 such services either alone or with others at the same location
25 or other location affiliated with the practice in a form and
26 within a scope permitted by such licensure or legal

1 authorization for the provision of such services and who enters
2 into an in-office membership care agreement.

3 Section 15. In-office membership care agreement
4 provisions.

5 (a) An in-office membership care agreement shall identify:

6 (1) the primary care provider or providers and the
7 patient or patients;

8 (2) the general scope of services as well as the
9 specific services to be provided by the primary care
10 provider as part of the in-office membership care
11 agreement;

12 (3) the location or locations where services are to be
13 provided;

14 (4) the amount of the direct fee and the time interval
15 at which it is to be paid; and

16 (5) the term of the in-office membership care agreement
17 and the conditions upon which it may be terminated by the
18 primary care provider.

19 (b) An in-office membership care agreement shall be
20 terminable at will by written notice from the patient to the
21 primary care provider.

22 (c) If a party provides written notice of termination of
23 the in-office membership care agreement, the primary care
24 provider may refund to the patient all unearned direct fees
25 associated with the covered services under the in-office

1 membership care agreement.

2 Section 20. Location of in-office membership care
3 services. In-office membership care services may be provided in
4 a primary care provider's office, the patient's home, or
5 another location in which a patient visit with the primary care
6 provider needs to occur.

7 Section 25. Insurance billing prohibited. Neither the
8 patient nor the primary care provider shall submit a bill to an
9 insurer for the services provided under an in-office membership
10 care agreement.

11 Section 30. In-office membership care agreements not
12 classified as insurance. In-office membership care agreements
13 are not subject to regulation as insurance under the Illinois
14 Insurance Code.

15 Section 35. Disclaimer. An in-office membership care
16 agreement shall include the following disclaimer: "This
17 agreement does not provide health insurance coverage,
18 including the minimal essential coverage required by
19 applicable federal law. It provides only the services described
20 herein. It is recommended that health care insurance be
21 obtained to cover medical or dental services not provided for
22 under this in-office membership care agreement."

1 Section 40. Restrictions on transfer. An in-office
2 membership care agreement may not be sold or transferred by the
3 primary care provider without the written consent of the
4 patient and may be transferred only to another primary care
5 provider. An in-office membership care agreement may not be
6 sold to a group, employer or group of subscribers because it is
7 an individual agreement between a primary care provider and a
8 patient. These limitations do not prohibit the presentation of
9 marketing materials to groups of potential patients or their
10 representatives.

11 Section 45. Effect of this Act. This Act does not prohibit
12 health care providers who are not primary care providers from
13 entering into agreements with patients to the extent such
14 agreements do not violate the provisions of the Illinois
15 Insurance Code.

16 Section 80. The Illinois Insurance Code is amended by
17 changing Section 352 as follows:

18 (215 ILCS 5/352) (from Ch. 73, par. 964)

19 Sec. 352. Scope of Article.

20 (a) Except as provided in subsections (b), (c), (d), and
21 (e), this Article shall apply to all companies transacting in
22 this State the kinds of business enumerated in clause (b) of

1 Class 1 and clause (a) of Class 2 of section 4. Nothing in this
2 Article shall apply to, or in any way affect policies or
3 contracts described in clause (a) of Class 1 of Section 4;
4 however, this Article shall apply to policies and contracts
5 which contain benefits providing reimbursement for the
6 expenses of long term health care which are certified or
7 ordered by a physician including but not limited to
8 professional nursing care, custodial nursing care, and
9 non-nursing custodial care provided in a nursing home or at a
10 residence of the insured.

11 (b) (Blank).

12 (c) A policy issued and delivered in this State that
13 provides coverage under that policy for certificate holders who
14 are neither residents of nor employed in this State does not
15 need to provide to those nonresident certificate holders who
16 are not employed in this State the coverages or services
17 mandated by this Article.

18 (d) Stop-loss insurance is exempt from all Sections of this
19 Article, except this Section and Sections 353a, 354, 357.30,
20 and 370. For purposes of this exemption, stop-loss insurance is
21 further defined as follows:

22 (1) The policy must be issued to and insure an
23 employer, trustee, or other sponsor of the plan, or the
24 plan itself, but not employees, members, or participants.

25 (2) Payments by the insurer must be made to the
26 employer, trustee, or other sponsors of the plan, or the

1 plan itself, but not to the employees, members,
2 participants, or health care providers.

3 (e) A policy issued or delivered in this State to the
4 Department of Healthcare and Family Services (formerly
5 Illinois Department of Public Aid) and providing coverage,
6 under clause (b) of Class 1 or clause (a) of Class 2 as
7 described in Section 4, to persons who are enrolled under
8 Article V of the Illinois Public Aid Code or under the
9 Children's Health Insurance Program Act is exempt from all
10 restrictions, limitations, standards, rules, or regulations
11 respecting benefits imposed by or under authority of this Code,
12 except those specified by subsection (1) of Section 143,
13 Section 370c, and Section 370c.1. Nothing in this subsection,
14 however, affects the total medical services available to
15 persons eligible for medical assistance under the Illinois
16 Public Aid Code.

17 (f) An in-office membership care agreement provided under
18 the In-Office Membership Care Act is not insurance for the
19 purposes of this Code.

20 (Source: P.A. 99-480, eff. 9-9-15.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.