



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2779

Introduced 2/16/2023, by Rep. Robert "Bob" Rita

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.34

Amends the Illinois Insurance Code. Provides that the plan sponsor of a health benefit plan may, on behalf of persons covered by the plan, provide the consent to the mailing of all communications related to the plan by electronic means and to the electronic delivery of any health insurance identification card; that before consenting on behalf of a party, a plan sponsor must confirm that the party routinely uses electronic communications during the normal course of employment; and that before providing communications or delivery by electronic means, the insurer providing the health benefit plan must provide the covered person an opportunity to opt out of communications or delivery by electronic means. Defines "health benefit plan" and "plan sponsor".

LRB103 27210 BMS 53580 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 5. The Illinois Insurance Code is amended by  
5 changing Section 143.34 as follows:

6 (215 ILCS 5/143.34)

7 Sec. 143.34. Electronic notices and documents.

8 (a) As used in this Section:

9 "Delivered by electronic means" includes:

10 (1) delivery to an electronic mail address at which a  
11 party has consented to receive notices or documents; or

12 (2) posting on an electronic network or site  
13 accessible via the Internet, mobile application, computer,  
14 mobile device, tablet, or any other electronic device,  
15 together with separate notice of the posting, which shall  
16 be provided by electronic mail to the address at which the  
17 party has consented to receive notice or by any other  
18 delivery method that has been consented to by the party.

19 "Health benefit plan" means a policy, contract,  
20 certificate, or agreement entered into, offered by, or issued  
21 by an insurer to provide, deliver, arrange for, pay for, or  
22 reimburse any of the costs of health care services, including  
23 a vision or dental benefit plan.

1 "Party" means any recipient of any notice or document  
2 required as part of an insurance transaction, including, but  
3 not limited to, an applicant, an insured, a policyholder, or  
4 an annuity contract holder.

5 "Plan sponsor" means a person who establishes, adopts, or  
6 maintains a health benefit plan that covers residents of this  
7 State, including a plan established, adopted, or maintained by  
8 an employer or jointly by an employer and one or more employee  
9 organizations, an association, a committee, a joint board of  
10 trustees, or any similar group of representatives who  
11 establish, adopt, or maintain a plan. "Plan sponsor" does not  
12 include a regulated entity.

13 (b) Subject to the requirements of this Section, any  
14 notice to a party or any other document required under  
15 applicable law in an insurance transaction or that is to serve  
16 as evidence of insurance coverage may be delivered, stored,  
17 and presented by electronic means so long as it meets the  
18 requirements of the Uniform Electronic Transactions Act.

19 (c) Delivery of a notice or document in accordance with  
20 this Section shall be considered equivalent to any delivery  
21 method required under applicable law, including delivery by  
22 first class mail; first class mail, postage prepaid; certified  
23 mail; certificate of mail; or certificate of mailing.

24 (d) A notice or document may be delivered by electronic  
25 means by an insurer to a party under this Section if:

26 (1) the party has affirmatively consented to that

1 method of delivery and has not withdrawn the consent;

2 (2) the party, before giving consent, is provided with  
3 a clear and conspicuous statement informing the party of:

4 (A) the right of the party to withdraw consent to  
5 have a notice or document delivered by electronic  
6 means, at any time, and any conditions or consequences  
7 imposed in the event consent is withdrawn;

8 (B) the types of notices and documents to which  
9 the party's consent would apply;

10 (C) the right of a party to have a notice or  
11 document delivered in paper form; and

12 (D) the procedures a party must follow to withdraw  
13 consent to have a notice or document delivered by  
14 electronic means and to update the party's electronic  
15 mail address;

16 (3) the party:

17 (A) before giving consent, is provided with a  
18 statement of the hardware and software requirements  
19 for access to, and retention of, a notice or document  
20 delivered by electronic means; and

21 (B) consents electronically, or confirms consent  
22 electronically, in a manner that reasonably  
23 demonstrates that the party can access information in  
24 the electronic form that will be used for notices or  
25 documents delivered by electronic means as to which  
26 the party has given consent; and

1           (4) after consent of the party is given, the insurer,  
2           in the event a change in the hardware or software  
3           requirements needed to access or retain a notice or  
4           document delivered by electronic means creates a material  
5           risk that the party will not be able to access or retain a  
6           subsequent notice or document to which the consent  
7           applies:

8           (A) provides the party with a statement that  
9           describes:

10           (i) the revised hardware and software  
11           requirements for access to and retention of a  
12           notice or document delivered by electronic means;  
13           and

14           (ii) the right of the party to withdraw  
15           consent without the imposition of any condition or  
16           consequence that was not disclosed at the time of  
17           initial consent; and

18           (B) complies with paragraph (2) of this subsection  
19           (d).

20           (e) Delivery of a notice or document in accordance with  
21           this Section does not affect requirements related to content  
22           or timing of any notice or document required under applicable  
23           law.

24           (f) If a provision of this Section or applicable law  
25           requiring a notice or document to be provided to a party  
26           expressly requires verification or acknowledgment of receipt

1 of the notice or document, the notice or document may be  
2 delivered by electronic means only if the method used provides  
3 for verification or acknowledgment of receipt.

4 (g) The legal effectiveness, validity, or enforceability  
5 of any contract or policy of insurance executed by a party may  
6 not be denied solely because of the failure to obtain  
7 electronic consent or confirmation of consent of the party in  
8 accordance with subparagraph (B) of paragraph (3) of  
9 subsection (d) of this Section.

10 (h) A withdrawal of consent by a party does not affect the  
11 legal effectiveness, validity, or enforceability of a notice  
12 or document delivered by electronic means to the party before  
13 the withdrawal of consent is effective.

14 A withdrawal of consent by a party is effective within a  
15 reasonable period of time after receipt of the withdrawal by  
16 the insurer.

17 Failure by an insurer to comply with paragraph (4) of  
18 subsection (d) of this Section and subsection (j) of this  
19 Section may be treated, at the election of the party, as a  
20 withdrawal of consent for purposes of this Section.

21 (i) This Section does not apply to a notice or document  
22 delivered by an insurer in an electronic form before the  
23 effective date of this amendatory Act of the 99th General  
24 Assembly to a party who, before that date, has consented to  
25 receive notice or document in an electronic form otherwise  
26 allowed by law.

1 (j) If the consent of a party to receive certain notices or  
2 documents in an electronic form is on file with an insurer  
3 before the effective date of this amendatory Act of the 99th  
4 General Assembly and, pursuant to this Section, an insurer  
5 intends to deliver additional notices or documents to the  
6 party in an electronic form, then prior to delivering such  
7 additional notices or documents electronically, the insurer  
8 shall:

9 (1) provide the party with a statement that  
10 describes:

11 (A) the notices or documents that shall be  
12 delivered by electronic means under this Section  
13 that were not previously delivered electronically;  
14 and

15 (B) the party's right to withdraw consent to  
16 have notices or documents delivered by electronic  
17 means without the imposition of any condition or  
18 consequence that was not disclosed at the time of  
19 initial consent; and

20 (2) comply with paragraph (2) of subsection (d) of  
21 this Section.

22 (k) An insurer shall deliver a notice or document by any  
23 other delivery method permitted by law other than electronic  
24 means if:

25 (1) the insurer attempts to deliver the notice or  
26 document by electronic means and has a reasonable basis

1 for believing that the notice or document has not been  
2 received by the party; or

3 (2) the insurer becomes aware that the electronic mail  
4 address provided by the party is no longer valid.

5 (1) A producer shall not be subject to civil liability for  
6 any harm or injury that occurs as a result of a party's  
7 election to receive any notice or document by electronic means  
8 or by an insurer's failure to deliver a notice or document by  
9 electronic means unless the harm or injury is caused by the  
10 willful and wanton misconduct of the producer.

11 (m) This Section shall not be construed to modify, limit,  
12 or supersede the provisions of the federal Electronic  
13 Signatures in Global and National Commerce Act, as amended.

14 (n) Nothing in this Section shall prevent an insurer from  
15 posting on the insurer's Internet site any standard policy and  
16 any endorsements to such a policy that does not contain  
17 personally identifiable information, in accordance with  
18 Section 143.33 of this Code, in lieu of delivery to a  
19 policyholder, insured, or applicant for insurance by any other  
20 method.

21 (o) The plan sponsor of a health benefit plan may, on  
22 behalf of persons covered by the plan, provide the consent to  
23 the mailing of all communications related to the plan by  
24 electronic means and to the electronic delivery of any health  
25 insurance identification card. Before consenting on behalf of  
26 a party, a plan sponsor must confirm that the party routinely



1 uses electronic communications during the normal course of  
2 employment. Before providing communications or delivery by  
3 electronic means, the insurer providing the health benefit  
4 plan must provide the covered person an opportunity to opt out  
5 of communications or delivery by electronic means.

6 (Source: P.A. 102-38, eff. 6-25-21.)