



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1694

Introduced 2/24/2005, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

225 ILCS 80/26.17 new

Amends the Illinois Optometric Practice Act of 1987. Provides that surgical comanagement of patients by eye care providers is permitted in certain circumstances. Provides that no comanaging eye care provider may receive a percentage of the global surgical fee that exceeds the relative value of services provided to the comanaged patient. Requires each eye care provider to be licensed or certified and qualified for the services provided to the patient. Requires the patient or legal guardian to be fully informed in writing about the surgical comanagement arrangement and to sign a statement acknowledging that certain details of the arrangement have been fully explained. Requires comanaging eye care providers to establish written protocols governing the manner in which care will be provided to comanaged patients. Requires comanaging eye care providers to communicate regularly and in a timely manner regarding patients' care. Prohibits certain acts by comanaging eye care providers. Provides that the Department of Financial and Professional Regulation is responsible for enforcing the provisions. Allows the Department to adopt rules to implement the provisions. Provides that the provisions do not limit the tort liability of a licensee and that compliance with the provisions may not be construed as malpractice. Effective immediately.

LRB094 10821 LJB 41311 b

FISCAL NOTE ACT
MAY APPLY

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 Optometric Practice Act of 1987 is
5 amended by adding Section 26.17 as follows:

6 (225 ILCS 80/26.17 new)

7 Sec. 26.17. Surgical comanagement arrangements.

8 (a) As used in this Section, the following terms shall have
9 the meaning ascribed to them:

10 "Ancillary personnel" means a person who is not an
11 ophthalmologist or an optometrist working under the
12 direction of an ophthalmologist or an optometrist.

13 "Eye care provider" means a person licensed pursuant to
14 this Act.

15 "Ophthalmologist" means a physician who has graduated
16 from an accredited ophthalmology residency program.

17 "Optometrist" means a doctor of optometry who has
18 graduated from an accredited school of optometry.

19 "Surgical comanagement" means the collaboration and
20 sharing of responsibilities among eye care providers with
21 respect to the preoperative or postoperative care of an eye
22 surgery patient. Surgical comanagement does not include
23 delegating tasks relating to the care of a surgical patient
24 to ancillary personnel working under the direct
25 supervision of an eye care provider.

26 (b) Surgical comanagement is permitted when the following
27 conditions are met:

28 (1) the patient has indicated a preference to have
29 preoperative or postoperative care provided by an eye care
30 provider other than the operating surgeon; the distance
31 from the patient's home to the operating surgeon's office
32 would result in an unreasonable hardship for the patient;

1 extenuating circumstances exist that prevent the patient
2 from visiting the surgeon's office for routine
3 preoperative or postoperative care and such care can be
4 provided by another qualified eye care provider; the
5 surgeon chosen by the patient is not available to perform
6 the operation and associated care within a reasonable
7 proximity to the patient's home; or the operating surgeon
8 will not be available to provide postoperative care after
9 the surgery, provided that the absence of the operating
10 surgeon does not constitute patient abandonment or
11 improper itinerant surgery; and

12 (2) the patient chooses to have preoperative or
13 postoperative care finished by an eye care provider other
14 than the operating surgeon after being fully informed about
15 the proposed comanagement as described in subsection (e).

16 (c) None of the comanaging eye care providers shall receive
17 a percentage of the global surgical fee that exceeds the
18 relative value of services provided to the patient that are
19 reasonable and necessary for the patient's care.

20 (d) Each comanaging eye care provider shall be licensed or
21 certified and qualified for the services the eye care provider
22 provides to the patient. If surgical intervention is required
23 during the postoperative period for medically necessary
24 reasons, the patient shall be referred back to the original
25 operating surgeon or to another surgeon with comparable skills.

26 (e) A patient or legal guardian shall be fully informed in
27 writing about the surgical comanagement arrangement and shall
28 sign and receive a statement acknowledging that the details of
29 the surgical comanagement arrangement have been fully
30 explained to the patient, including, but not limited to, all of
31 the following:

32 (1) the licensure and qualifications of the eye care
33 providers who will be managing the patient's care
34 preoperatively, during the operation, and postoperatively;

35 (2) the financial arrangement between the comanaging
36 eye care providers, including the division of the global

1 surgical fee among the providers participating in the
2 surgical comanagement arrangement;

3 (3) the patient's right to receive care from any of the
4 comanaging eye care providers that the providers are
5 licensed and qualified to provide; and

6 (4) the patient's right to accept or decline to
7 participate in the surgical comanagement arrangement.

8 The comanagement informed consent shall be documented in
9 the patient's medical records maintained by each of the
10 comanaging eye care providers, including the patient's
11 acknowledgment of and agreement to the surgical comanagement
12 arrangement.

13 (f) The comanaging eye care providers shall establish
14 written protocols governing the manner in which care will be
15 provided to the patient, including, but not limited to:

16 (1) the nature of routine care expected;

17 (2) who will deliver each aspect of care;

18 (3) how complications will be handled;

19 (4) the parameters that will determine when a patient
20 is fully healed and may be released from further care, and
21 how the release will be accomplished; and

22 (5) the manner in which communication between the eye
23 care providers will occur.

24 To comply with the provisions of this subsection (f), it is
25 not necessary to establish a separate or unique protocol for
26 each patient.

27 (g) Comanaging eye care providers shall communicate
28 regularly and in a timely manner consistent with the
29 comanagement protocol procedures established pursuant to
30 subsection (f) regarding the patient's care and progress for
31 the duration of the surgical care period until the patient is
32 released from further care.

33 (h) Nothing in this Section shall authorize a comanaging
34 eye care provider to do any of the following:

35 (1) enter into a surgical comanagement arrangement for
36 the purpose of splitting a fee without providing a

1 commensurate medically necessary service to the patient;

2 (2) demand to manage postoperative care in return for
3 making a surgical referral;

4 (3) threaten to withhold referrals to a surgeon who
5 does not agree to comanage a patient;

6 (4) offer to comanage a patient in return for receiving
7 a surgical referral;

8 (5) intentionally refer a patient for surgery in a
9 manner that has no other legitimate purpose than to justify
10 a surgical comanagement arrangement;

11 (6) initiate a surgical comanagement arrangement when
12 the patient otherwise would have been released from further
13 care following surgery;

14 (7) fail to fully inform the patient about the surgical
15 comanagement arrangement or failing to obtain a signed
16 informed consent statement as defined in subsection (e);

17 (8) mislead a patient as to the appropriateness of
18 surgical comanagement for his or her particular
19 circumstances, or leading a patient to believe that he or
20 she does not have the right to receive postoperative care
21 from the operating surgeon or other comanaging providers;

22 (9) fail to engage in regular and timely communication
23 among the comanaging eye care providers;

24 (10) fail to establish a written protocol for comanaged
25 patients; or

26 (11) any other action that is not in the best interest
27 of the patient as determined by the eye care provider's
28 respective licensing board.

29 Nothing in this subsection (h) shall be construed to
30 infringe upon an eye care provider's prerogative to recommend a
31 surgeon or refer a patient to a surgeon based on that
32 provider's opinion or assessment of the surgeon's ability or
33 fitness to provide appropriate surgical care to a patient.

34 (i) The Department shall be responsible for enforcement of
35 the provisions of this Section.

36 (j) The Department may adopt rules to implement the

1 provisions of this Section as it affects licensees under this
2 Act.

3 (k) Nothing in this Section shall be construed to infringe
4 upon the right of any eye care provider to decide whether or
5 not to participate in comanagement arrangements either as a
6 matter of policy or in a particular instance.

7 (l) Nothing in this Section shall be construed to limit
8 tort liability of a physician or an optometrist with respect to
9 any aspect of patient care. Compliance with this Section shall
10 not be construed as malpractice.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.