



Sen. John G. Mulroe

Filed: 2/26/2019

10100SB0174sam002

LRB101 04949 RAB 56833 a

1 AMENDMENT TO SENATE BILL 174

2 AMENDMENT NO. _____. Amend Senate Bill 174 by replacing
3 everything after the enacting clause with the following:

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 dental services by encouraging
9 innovative use of in-office membership care practices for
10 dental care. In-office membership care practices utilize a
11 model of periodic fees for provider access and management over
12 time, rather than simply a fee for visit or procedure service
13 model. Some patients and individual dental care providers may
14 wish to establish direct agreements with one another as an
15 alternative to traditional fee-for-service care financed
16 through health insurance. The purpose of this Act is to confirm

1 that in-office membership care agreements that satisfy the
2 provisions of this Act do not constitute insurance and as such
3 are not subject to the Illinois Insurance Code.

4 Section 10. Definitions. In this Act:

5 "Dental care provider" means a natural person or persons
6 licensed or otherwise legally authorized to provide health care
7 services in the State of Illinois in the field of dentistry who
8 provides such services either alone or with others at the same
9 location or other location affiliated with the practice in a
10 form and within a scope permitted by such licensure or legal
11 authorization for the provision of such services and who enters
12 into an in-office membership care agreement.

13 "Direct fee" means an agreed-upon fee charged by a dental
14 care provider as consideration for providing and being
15 available to provide in-office membership care services
16 described in an in-office membership care agreement.

17 "In-office membership care agreement" means a written
18 contract between a dental care provider or group of providers
19 and an individual patient, the patient's family, or the
20 patient's representative in which the dental care provider
21 agrees to provide in-office membership care services to the
22 patient over a specified period of time for payment of a direct
23 fee.

24 "In-office membership care services" means services that a
25 dental care provider is licensed or otherwise legally

1 authorized to provide, including, but not limited to, (i)
2 dental screenings, assessments, diagnoses, and treatments for
3 the purpose of promoting health; (ii) detection, management,
4 and care of disease or injury; and (iii) routine preventive or
5 diagnostic dental treatment.

6 "Patient" means a person who is entitled to receive
7 in-office membership care services under an in-office
8 membership care agreement.

9 Section 15. In-office membership care agreement
10 provisions.

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

12 (1) the dental care provider or providers and the
13 patient or patients;

14 (2) the general scope of services as well as the
15 specific services to be provided by the dental care
16 provider as part of the in-office membership care
17 agreement;

18 (3) the location or locations where services are to be
19 provided;

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

22 (5) the term of the in-office membership care agreement
23 and the conditions upon which it may be terminated by the
24 dental care provider.

25 (b) An in-office membership care agreement shall be

1 terminable at will by written notice from the patient to the
2 dental care provider.

3 (c) If a party provides written notice of termination of
4 the in-office membership care agreement, the dental care
5 provider may refund to the patient all unearned direct fees
6 associated with the covered services under the in-office
7 membership care agreement.

8 Section 20. Location of in-office membership care
9 services. In-office membership care services may be provided in
10 a dental care provider's office or another location in which a
11 patient visit with the dental care provider needs to occur.

12 Section 25. Insurance billing prohibited. Neither the
13 patient nor the dental care provider shall submit a bill to an
14 insurer for the services provided under an in-office membership
15 care agreement.

16 Section 30. In-office membership care agreements not
17 classified as insurance. In-office membership care agreements
18 are not subject to regulation as insurance under the Illinois
19 Insurance Code.

20 Section 35. Disclaimer. An in-office membership care
21 agreement shall include the following disclaimer: "This
22 agreement does not provide health insurance coverage,

1 including the minimal essential coverage required by
2 applicable federal law. It provides only the services described
3 herein. It is recommended that health care insurance be
4 obtained to cover dental services not provided for under this
5 in-office membership care agreement.".

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

16 Section 45. Effect of this Act. This Act does not prohibit
17 dental care providers who are not dental care providers
18 offering in-office membership care agreements from entering
19 into agreements with patients to the extent such agreements do
20 not violate the provisions of the Illinois Insurance Code.

21 Section 80. The Illinois Insurance Code is amended by
22 changing Section 352 as follows:

1 (215 ILCS 5/352) (from Ch. 73, par. 964)

2 Sec. 352. Scope of Article.

3 (a) Except as provided in subsections (b), (c), (d), and
4 (e), this Article shall apply to all companies transacting in
5 this State the kinds of business enumerated in clause (b) of
6 Class 1 and clause (a) of Class 2 of section 4. Nothing in this
7 Article shall apply to, or in any way affect policies or
8 contracts described in clause (a) of Class 1 of Section 4;
9 however, this Article shall apply to policies and contracts
10 which contain benefits providing reimbursement for the
11 expenses of long term health care which are certified or
12 ordered by a physician including but not limited to
13 professional nursing care, custodial nursing care, and
14 non-nursing custodial care provided in a nursing home or at a
15 residence of the insured.

16 (b) (Blank).

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

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

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

4 (2) Payments by the insurer must be made to the
5 employer, trustee, or other sponsors of the plan, or the
6 plan itself, but not to the employees, members,
7 participants, or health care providers.

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

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".