

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

20 Section 10. Definitions. In this Act:

21 "Dental care provider" means a natural person or persons
22 licensed or otherwise legally authorized to provide health care

1 services in the State of Illinois in the field of dentistry who
2 provides such services either alone or with others at the same
3 location or other location affiliated with the practice in a
4 form and within a scope permitted by such licensure or legal
5 authorization for the provision of such services and who enters
6 into an in-office membership care agreement.

7 "Direct fee" means an agreed-upon fee charged by a dental
8 care provider as consideration for providing and being
9 available to provide in-office membership care services
10 described in an in-office membership care agreement.

11 "In-office membership care agreement" means a written
12 contract between a dental care provider or group of providers
13 and an individual patient, the patient's family, or the
14 patient's representative in which the dental care provider
15 agrees to provide in-office membership care services to the
16 patient over a specified period of time for payment of a direct
17 fee.

18 "In-office membership care services" means services that a
19 dental care provider is licensed or otherwise legally
20 authorized to provide, including, but not limited to, (i)
21 dental screenings, assessments, diagnoses, and treatments for
22 the purpose of promoting health; (ii) detection, management,
23 and care of disease or injury; and (iii) routine preventive or
24 diagnostic dental treatment.

25 "Patient" means a person who is entitled to receive
26 in-office membership care services under an in-office

1 membership care agreement.

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

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

5 (1) the dental care provider or providers and the
6 patient or patients;

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

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

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

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

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

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

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

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

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

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

21 Section 40. Restrictions on transfer. An in-office

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

10 Section 45. Effect of this Act. This Act does not prohibit
11 dental care providers who are not dental care providers
12 offering in-office membership care agreements from entering
13 into agreements with patients to the extent such agreements do
14 not violate the provisions of the Illinois Insurance Code.

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

17 (215 ILCS 5/352) (from Ch. 73, par. 964)

18 Sec. 352. Scope of Article.

19 (a) Except as provided in subsections (b), (c), (d), and
20 (e), this Article shall apply to all companies transacting in
21 this State the kinds of business enumerated in clause (b) of
22 Class 1 and clause (a) of Class 2 of section 4. Nothing in this
23 Article shall apply to, or in any way affect policies or

1 contracts described in clause (a) of Class 1 of Section 4;
2 however, this Article shall apply to policies and contracts
3 which contain benefits providing reimbursement for the
4 expenses of long term health care which are certified or
5 ordered by a physician including but not limited to
6 professional nursing care, custodial nursing care, and
7 non-nursing custodial care provided in a nursing home or at a
8 residence of the insured.

9 (b) (Blank).

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

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

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

23 (2) Payments by the insurer must be made to the
24 employer, trustee, or other sponsors of the plan, or the
25 plan itself, but not to the employees, members,
26 participants, or health care providers.

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

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.