



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/09/04, by Jay C. Hoffman

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/424

from Ch. 73, par. 1031

215 ILCS 97/50

215 ILCS 97/60 new

Amends the Insurance Code. Provides that it is an unfair or deceptive practice to issue a new policy within an individual health insurance market after notice of withdrawal from that market has been given if that coverage was among the types of coverage for which notice of withdrawal was given. Amends the Illinois Health Insurance Portability and Accountability Act. Provides that a health insurance issuer may not discontinue coverage in an individual market in Illinois if a parent health insurance issuer that owns that health insurance issuer in whole or in part or a subsidiary health insurance issuer that is owned in whole or in part by that health insurance issuer continues selling health insurance in that market. Provides that a modification of coverage by a health insurance issuer is not uniform if a parent health insurance issuer that owns that health insurance issuer in whole or in part or a subsidiary health insurance issuer that is owned in whole or in part by that health insurance issuer does not make the same modification of coverage. Provides that if a health insurance issuer elects to uniformly modify coverage, uniformly terminate coverage, or discontinue coverage in a marketplace, the issuer shall provide notice to the Department of Insurance prior to notifying the plan sponsors, participants, beneficiaries, and covered individuals. Specifies information that shall be included in the notice. Adds a severability clause.

LRB093 19616 SAS 45357 b

1 AN ACT in relation to insurance.

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 424 as follows:

6 (215 ILCS 5/424) (from Ch. 73, par. 1031)

7 Sec. 424. Unfair methods of competition and unfair or  
8 deceptive acts or practices defined. The following are hereby  
9 defined as unfair methods of competition and unfair and  
10 deceptive acts or practices in the business of insurance:

11 (1) The commission by any person of any one or more of the  
12 acts defined or prohibited by Sections 134, 143.24c, 147, 148,  
13 149, 151, 155.22, 155.22a, 236, 237, 364, and 469 of this Code.

14 (2) Entering into any agreement to commit, or by any  
15 concerted action committing, any act of boycott, coercion or  
16 intimidation resulting in or tending to result in unreasonable  
17 restraint of, or monopoly in, the business of insurance.

18 (3) Making or permitting, in the case of insurance of the  
19 types enumerated in Classes 1, 2, and 3 of Section 4, any  
20 unfair discrimination between individuals or risks of the same  
21 class or of essentially the same hazard and expense element  
22 because of the race, color, religion, or national origin of  
23 such insurance risks or applicants. The application of this  
24 Article to the types of insurance enumerated in Class 1 of  
25 Section 4 shall in no way limit, reduce, or impair the  
26 protections and remedies already provided for by Sections 236  
27 and 364 of this Code or any other provision of this Code.

28 (4) Engaging in any of the acts or practices defined in or  
29 prohibited by Sections 154.5 through 154.8 of this Code.

30 (5) Making or charging any rate for insurance against  
31 losses arising from the use or ownership of a motor vehicle  
32 which requires a higher premium of any person by reason of his

1 physical handicap, race, color, religion, or national origin.

2 (6) Issuing a new policy within an individual health  
3 insurance market after notice of withdrawal from that market  
4 has been given according to item (i) of subparagraph (a) of  
5 paragraph (2) of subsection (C) of Section 50 of the Illinois  
6 Health Insurance Portability and Accountability Act if that  
7 coverage was among the types of coverage for which notice of  
8 withdrawal has been given.

9 (Source: P.A. 92-399, eff. 8-16-01; 92-651, eff. 7-11-02;  
10 92-669, eff. 1-1-03.)

11 Section 10. The Illinois Health Insurance Portability and  
12 Accountability Act is amended by changing Section 50 and adding  
13 Section 60 as follows:

14 (215 ILCS 97/50)

15 Sec. 50. Guaranteed renewability of individual health  
16 insurance coverage.

17 (A) In general. Except as provided in this Section, a  
18 health insurance issuer that provides individual health  
19 insurance coverage to an individual shall renew or continue in  
20 force such coverage at the option of the individual.

21 (B) General exceptions. A health insurance issuer may  
22 nonrenew or discontinue health insurance coverage of an  
23 individual in the individual market based only on one or more  
24 of the following:

25 (1) Nonpayment of premiums. The individual has failed  
26 to pay premiums or contributions in accordance with the  
27 terms of the health insurance coverage or the issuer has  
28 not received timely premium payments.

29 (2) Fraud. The individual has performed an act or  
30 practice that constitutes fraud or made an intentional  
31 misrepresentation of material fact under the terms of the  
32 coverage.

33 (3) Termination of plan. The issuer is ceasing to offer  
34 coverage in the individual market in accordance with

1 subsection (C) of this Section and applicable Illinois law.

2 (4) Movement outside the service area. In the case of a  
3 health insurance issuer that offers health insurance  
4 coverage in the market through a network plan, the  
5 individual no longer resides, lives, or works in the  
6 service area (or in an area for which the issuer is  
7 authorized to do business), but only if such coverage is  
8 terminated under this paragraph uniformly without regard  
9 to any health status-related factor of covered  
10 individuals.

11 (5) Association membership ceases. In the case of  
12 health insurance coverage that is made available in the  
13 individual market only through one or more bona fide  
14 associations, the membership of the individual in the  
15 association (on the basis of which the coverage is  
16 provided) ceases, but only if such coverage is terminated  
17 under this paragraph uniformly without regard to any health  
18 status-related factor of covered individuals.

19 (C) Requirements for uniform termination of coverage.

20 (1) Particular type of coverage not offered. In any  
21 case in which an issuer decides to discontinue offering a  
22 particular type of health insurance coverage offered in the  
23 individual market, coverage of such type may be  
24 discontinued by the issuer only if:

25 (a) the issuer provides notice to each covered  
26 individual provided coverage of this type in such  
27 market of such discontinuation at least 90 days prior  
28 to the date of the discontinuation of such coverage;

29 (b) the issuer offers, to each individual in the  
30 individual market provided coverage of this type, the  
31 option to purchase any other individual health  
32 insurance coverage currently being offered by the  
33 issuer for individuals in such market; and

34 (c) in exercising the option to discontinue  
35 coverage of that type and in offering the option of  
36 coverage under subparagraph (b), the issuer acts

1 uniformly without regard to any health status-related  
2 factor of enrolled individuals or individuals who may  
3 become eligible for such coverage.

4 (2) Discontinuance of all coverage.

5 (a) In general. Subject to subparagraph (c), in any  
6 case in which a health insurance issuer elects to  
7 discontinue offering all health insurance coverage in  
8 the individual market in Illinois, health insurance  
9 coverage may be discontinued by the issuer only if:

10 (i) the issuer provides notice to the Director  
11 and to each individual of the discontinuation at  
12 least 180 days prior to the date of the expiration  
13 of such coverage; and

14 (ii) all health insurance issued or delivered  
15 for issuance in Illinois in such market is  
16 discontinued and coverage under such health  
17 insurance coverage in such market is not renewed.

18 (a-5) A health insurance issuer may not  
19 discontinue offering health insurance coverage in an  
20 individual market in Illinois if another health  
21 insurance issuer in the same family of companies  
22 continues selling health insurance in that market. Any  
23 health insurance issuer that discontinued coverage  
24 after January 1, 2001, in such a way as to not comply  
25 with this subparagraph (a-5) shall reunderwrite all  
26 policyholders affected by that discontinuation under  
27 terms and conditions identical to those enjoyed by the  
28 affected policyholders immediately prior to their  
29 policies' discontinuation. The terms and conditions  
30 include, but are not limited to, any fees and  
31 deductible amounts. To be reunderwritten under these  
32 terms and conditions, affected policyholders must  
33 notify the relevant insurance issuer in writing by  
34 January 1, 2006, of their desire to be reunderwritten.

35 (b) Prohibition on market reentry. In the case of a  
36 discontinuation under subparagraph (a) in the

1 individual market, the issuer may not provide for the  
2 issuance of any health insurance coverage in Illinois  
3 involved during the 5-year period beginning on the date  
4 of the discontinuation of the last health insurance  
5 coverage not so renewed.

6 (D) Exception for uniform modification of coverage. At the  
7 time of coverage renewal, a health insurance issuer may modify  
8 the health insurance coverage for a policy form offered to  
9 individuals in the individual market so long as the  
10 modification is consistent with Illinois law and effective on a  
11 uniform basis among all individuals with that policy form. A  
12 modification of coverage by a health insurance issuer is not  
13 uniform if another health insurance issuer in the same family  
14 of companies does not make the same modification of coverage.  
15 Any health insurance issuer that modified coverage after  
16 January 1, 2001, in such a way as to not comply with this  
17 paragraph (D) shall reunderwrite all policyholders affected by  
18 that discontinuation under terms and conditions identical to  
19 those enjoyed by the affected policyholders immediately prior  
20 to their policies' modification. The terms and conditions  
21 include, but are not limited to, any fees and deductible  
22 amounts. To be reunderwritten under these terms and conditions,  
23 affected policyholders must notify the relevant insurance  
24 issuer in writing by January 1, 2006.

25 (E) Application to coverage offered only through  
26 associations. In applying this Section in the case of health  
27 insurance coverage that is made available by a health insurance  
28 issuer in the individual market to individuals only through one  
29 or more associations, a reference to an "individual" is deemed  
30 to include a reference to such an association (of which the  
31 individual is a member).

32 (F) For the purpose of this Section:

33 "Family of companies" means a business entity consisting of  
34 a parent company and any subsidiaries in which the parent  
35 company holds a 50% or greater ownership stake.

36 "Parent company" means a company identified by an employer

1 identification number that holds a 50% or greater ownership  
2 stake in one or more other companies.

3 "Subsidiary" means an insurance issuer licensed to do  
4 business in the State of Illinois and in which another company  
5 holds a 50% or greater ownership stake.

6 (Source: P.A. 90-567, eff. 1-23-98.)

7 (215 ILCS 97/60 new)

8 Sec. 60. Notice requirement to the Department. In any case  
9 where a health insurance issuer elects to uniformly modify  
10 coverage, uniformly terminate coverage, or discontinue  
11 coverage in a marketplace in accordance with Sections 30 and 50  
12 of this Act, the issuer shall provide notice to the Department  
13 prior to notifying the plan sponsors, participants,  
14 beneficiaries, and covered individuals. The notice shall be  
15 sent by certified mail to the Department 90 days in advance of  
16 any notification of the company's actions. The notice shall  
17 include: (i) a complete description of the action to be taken,  
18 (ii) a specific description of the type of coverage affected,  
19 (iii) the total number of covered lives affected, (iv) a sample  
20 draft of all letters being sent to the plan sponsors and  
21 participants, beneficiaries, or covered individuals, (v) time  
22 frames for the actions being taken, (vi) options the plans  
23 sponsors, participants, beneficiaries, or covered individuals  
24 may have available to them under the federal Health Insurance  
25 Portability and Accountability Act, and (vii) any other  
26 information as required by the Department.

27 Section 97. Severability. The provisions of this Act are  
28 severable under Section 1.31 of the Statute on Statutes.