

CHAPTER 151

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 17-1115

BY REPRESENTATIVE(S) Buck and Ginal, McKean, Arndt, Becker K., Beckman, Bridges, Buckner, Carver, Coleman, Danielson, Esgar, Exum, Garnett, Gray, Hammer, Herod, Hooton, Humphrey, Jackson, Kennedy, Kraft-Tharp, Landgraf, Lawrence, Lebsack, Lee, Leonard, Lontine, Lundeen, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Navarro, Neville P., Nordberg, Pabon, Pettersen, Rankin, Ransom, Rosenthal, Saine, Sias, Singer, Valdez, Van Winkle, Williams D., Winter, Wist, Young, Duran, Covarrubias, Hansen;

also SENATOR(S) Kefalas and Tate, Baumgardner, Cooke, Coram, Court, Crowder, Fields, Garcia, Gardner, Guzman, Hill, Holbert, Jahn, Martinez Humenik, Merrifield, Neville T., Priola, Scott, Smallwood, Sonnenberg, Todd, Williams A., Zenzinger, Grantham.

AN ACT**CONCERNING THE ESTABLISHMENT OF DIRECT PRIMARY HEALTH CARE AGREEMENTS TO OPERATE WITHOUT REGULATION BY THE DIVISION OF INSURANCE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) It is the public policy of the state of Colorado to promote access to medical care for all its citizens by encouraging innovative, cost-saving arrangements;

(b) Direct primary care providers use a model of health care delivery based on a periodic fee for a specified period of time, rather than a fee-for-service arrangement financed through health insurance; and

(c) Direct primary care services represent an option that can improve access to affordable primary care services, thereby increasing the health and well-being of patients.

(2) Therefore, it is the intent of the general assembly to establish direct primary health care agreements to operate without regulation by the division of insurance.

SECTION 2. In Colorado Revised Statutes, **add** article 23 to title 6 as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ARTICLE 23
Direct Primary Care

6-23-101. Definitions. AS USED IN THIS SECTION:

(1) "DIRECT PRIMARY CARE AGREEMENT" MEANS A WRITTEN AGREEMENT THAT:

(a) IS BETWEEN A PATIENT, HIS OR HER LEGAL REPRESENTATIVE, A GOVERNMENT ENTITY, OR A PATIENT'S EMPLOYER AND A DIRECT PRIMARY HEALTH CARE PROVIDER;

(b) DISCLOSES AND DESCRIBES TO THE PATIENT AND TO THE PERSON PAYING THE DIRECT PRIMARY CARE FEE THE PRIMARY CARE SERVICES TO BE PROVIDED IN EXCHANGE FOR PAYMENT OF A PERIODIC FEE;

(c) SPECIFIES THE PERIODIC FEE REQUIRED AND ANY ADDITIONAL FEES THAT MAY BE CHARGED;

(d) MAY ALLOW THE PERIODIC FEE AND ANY ADDITIONAL FEES TO BE PAID BY A THIRD PARTY;

(e) PROHIBITS THE PROVIDER FROM SUBMITTING A FEE-FOR-SERVICE CLAIM FOR PAYMENT TO A HEALTH INSURANCE ISSUER FOR PRIMARY CARE SERVICES COVERED UNDER THE AGREEMENT AND STATES THAT SOME SERVICES MAY BE A COVERED BENEFIT OR COVERED SERVICE UNDER THE PATIENT'S HEALTH BENEFIT PLAN AS DEFINED IN SECTION 10-16-102, AT NO COST TO THE PATIENT;

(f) CONSPICUOUSLY AND PROMINENTLY DISCLOSES TO ALL PARTIES SUBJECT TO THE AGREEMENT THAT IT IS NOT HEALTH INSURANCE AND DOES NOT MEET ANY INDIVIDUAL HEALTH BENEFIT PLAN MANDATE THAT MAY BE REQUIRED BY FEDERAL LAW AND THE PATIENT IS NOT ENTITLED TO HEALTH INSURANCE PROTECTIONS FOR CONSUMERS UNDER TITLE 10; AND

(g) ALLOWS EITHER PARTY TO TERMINATE THE AGREEMENT, IN WRITING AND WITH NOTICE, AS SPECIFIED IN THE AGREEMENT AND SUBJECT TO REFUND TERMS AND CONDITIONS IN THE AGREEMENT.

(2) "PRIMARY CARE SERVICE" INCLUDES THE SCREENING, ASSESSMENT, DIAGNOSIS, AND TREATMENT FOR THE PURPOSE OF PROMOTION OF HEALTH OR THE DETECTION AND MANAGEMENT OF DISEASE OR INJURY WITHIN THE COMPETENCY AND TRAINING OF THE PRIMARY CARE PROVIDER.

(3) "DIRECT PRIMARY HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL OR LEGAL ENTITY THAT IS LICENSED UNDER ARTICLE 36 OR 38 OF TITLE 12 TO PROVIDE PRIMARY CARE SERVICES IN THIS STATE AND WHO ENTERS INTO A DIRECT PRIMARY CARE AGREEMENT. "DIRECT PRIMARY HEALTH CARE PROVIDER" INCLUDES AN INDIVIDUAL PRIMARY CARE PROVIDER OR OTHER LEGAL ENTITY, ALONE OR WITH OTHERS PROFESSIONALLY ASSOCIATED WITH THE INDIVIDUAL OR OTHER LEGAL ENTITY.

6-23-102. Direct primary care - not regulated by the division of insurance.

(1) DIRECT PRIMARY CARE IS NOT INSURANCE AND IS NOT REGULATED BY THE COMMISSIONER OF INSURANCE PURSUANT TO TITLE 10.

(2) DIRECT PRIMARY CARE PROVIDERS AND DIRECT PRIMARY CARE AGREEMENTS THAT COMPLY WITH THIS ARTICLE 1 SHALL NOT BE CONSIDERED TO BE A HEALTH MAINTENANCE ORGANIZATION, INSURER, INSURANCE PRODUCER, OR INSURANCE AND ARE NOT SUBJECT TO TITLE 10.

(3) OFFERING OR ENTERING INTO A DIRECT PRIMARY CARE AGREEMENT IS NOT THE BUSINESS OF INSURANCE OR THE PRACTICE OF UNDERWRITING.

(4) A DIRECT PRIMARY HEALTH CARE PROVIDER OR AGENT OF A DIRECT PRIMARY HEALTH CARE PROVIDER IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY OR LICENSE TO MARKET, SELL, OR OFFER TO SELL A DIRECT PRIMARY CARE AGREEMENT.

6-23-103. Direct primary care provider rights. (1) A DIRECT PRIMARY CARE PROVIDER MAY:

(a) DECLINE TO ACCEPT PATIENTS WHOSE HEALTH NEEDS EXCEED THE PRIMARY CARE SERVICES OFFERED BY THE DIRECT PRIMARY HEALTH CARE PROVIDER; AND

(b) TERMINATE A DIRECT PRIMARY CARE AGREEMENT IF THE TERMINATION ALLOWS FOR THE TRANSITION OF CARE TO ANOTHER HEALTH CARE PROVIDER COMMENSURATE WITH THE STANDARDS OF PROFESSIONAL RESPONSIBILITY WITHIN THE STATE.

6-23-104. Direct primary care providers - prohibitions. (1) A DIRECT PRIMARY CARE PROVIDER MAY NOT DISCRIMINATE IN THE SELECTION OF PATIENTS ON THE BASIS OF AGE, CITIZENSHIP STATUS, COLOR, DISABILITY, GENDER OR GENDER IDENTITY, GENETIC INFORMATION, HEALTH STATUS, NATIONAL ORIGIN, RACE, RELIGION, SEX, SEXUAL ORIENTATION, OR ANY OTHER PROTECTED CLASS.

(2) DIRECT PRIMARY CARE PROVIDERS ARE SUBJECT TO SECTION 25.5-4-301.

(3) THIS SECTION DOES NOT PREVENT A DIRECT PRIMARY CARE PROVIDER FROM PROVIDING PRIMARY CARE TO PATIENTS WHO ARE NOT PARTY TO A DIRECT PRIMARY CARE AGREEMENT.

6-23-105. Enforcement. THIS ARTICLE 23 IS NOT SUBJECT TO ENFORCEMENT BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY PURSUANT TO THIS TITLE 6.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect

unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 24, 2017