

SENATE BILL 727

C3
SB 315/19 – FIN

0lr3329

By: **Senator Lam**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance Law – Application to Direct Primary Care Agreements – Exclusion**

3 FOR the purpose of defining a “direct primary care agreement” as a certain contract in
4 which a certain primary care provider agrees to provide certain primary care services
5 to a patient for a certain fee and for a certain period of time and that has certain
6 elements; excluding a direct primary care agreement from certain definitions for the
7 purpose of certain provisions of insurance law; providing that certain provisions of
8 insurance law do not apply to a direct primary care agreement; and generally
9 relating to the application of insurance law to direct primary care agreements.

10 BY repealing and reenacting, without amendments,
11 Article – Insurance
12 Section 1–101(a), 11–601(a), 18–101(a), and 31–101(a)
13 Annotated Code of Maryland
14 (2017 Replacement Volume and 2019 Supplement)

15 BY adding to
16 Article – Insurance
17 Section 1–101(l–1), 10–103(b)(9), 11–601(d)(2)(v), 14–101.1, 18–101(f)(3)(iv), and
18 31–101(g)(6)
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Insurance
23 Section 1–101(p)(3), 10–103(b)(7) and (8), 11–601(d)(2)(iii) and (iv), 15–101, and
24 18–101(f)(3)(ii) and (iii)
25 Annotated Code of Maryland
26 (2017 Replacement Volume and 2019 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



That the Laws of Maryland read as follows:

Article – Insurance

1–101.

(a) In this article the following words have the meanings indicated.

(L–1) “DIRECT PRIMARY CARE AGREEMENT” MEANS A WRITTEN CONTRACT IN WHICH A PRIMARY CARE PROVIDER AGREES TO PROVIDE PRIMARY CARE SERVICES TO AN INDIVIDUAL PATIENT FOR A SPECIFIED FEE AND PERIOD OF TIME AND THAT:

(1) IS BETWEEN A PATIENT OR A LEGAL REPRESENTATIVE OF THE PATIENT AND A PRIMARY CARE PROVIDER THAT:

(I) IS LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE;
AND

(II) PROVIDES PRIMARY CARE SERVICES WITHIN:

1. THE SCOPE OF PRACTICE OF THE PRIMARY CARE PROVIDER’S LICENSE; AND

2. THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION;

(2) IS SIGNED BY THE PATIENT OR A LEGAL REPRESENTATIVE OF THE PATIENT AND THE PRIMARY CARE PROVIDER OR AN AGENT OF THE PRIMARY CARE PROVIDER;

(3) AUTHORIZES EITHER PARTY TO TERMINATE THE AGREEMENT ON WRITTEN NOTICE TO THE OTHER PARTY;

(4) REQUIRES THAT UNEARNED FUNDS BE RETURNED TO THE PATIENT ON TERMINATION OF THE AGREEMENT;

(5) DESCRIBES THE PRIMARY HEALTH CARE SERVICES TO BE PROVIDED IN EXCHANGE FOR PAYMENT OF A PERIODIC FEE AND DESCRIBES ANY ONGOING CARE FOR WHICH AN ADDITIONAL FEE WILL BE CHARGED;

(6) SPECIFIES THE AMOUNT OF THE PERIODIC FEE AND ANY ADDITIONAL FEES THAT MAY BE CHARGED FOR ONGOING CARE;

(7) SPECIFIES THE DURATION OF THE AGREEMENT AND ANY

1 AUTOMATIC RENEWAL PERIODS;

2 (8) PROHIBITS THE PATIENT FROM BEING REQUIRED TO PAY MORE
3 THAN 12 MONTHS OF THE PERIODIC FEE IN ADVANCE;

4 (9) PROHIBITS THE PRIMARY CARE PROVIDER FROM BILLING A
5 THIRD PARTY ON A FEE-FOR-SERVICE BASIS;

6 (10) MAY INCLUDE A PER-VISIT FEE THAT IS LESS THAN THE MONTHLY
7 EQUIVALENT OF THE PERIODIC FEE;

8 (11) CONSPICUOUSLY STATES THAT THE AGREEMENT:

9 (I) IS NOT HEALTH INSURANCE; AND

10 (II) DOES NOT MEET ANY INDIVIDUAL HEALTH INSURANCE
11 MANDATES; AND

12 (12) INCLUDES A STATEMENT THAT THE PRIMARY CARE PROVIDER:

13 (I) MAY NOT DECLINE TO ACCEPT A NEW PATIENT OR
14 DISCONTINUE CARE TO AN EXISTING PATIENT SOLELY BECAUSE OF THE HEALTH
15 STATUS OF THE PATIENT;

16 (II) MAY DECLINE TO ACCEPT A PATIENT IF:

17 1. THE PRIMARY CARE PROVIDER HAS REACHED
18 MAXIMUM CAPACITY; OR

19 2. THE PATIENT'S MEDICAL CONDITION IS SUCH THAT
20 THE PRIMARY CARE PROVIDER IS UNABLE TO PROVIDE THE APPROPRIATE LEVEL
21 AND TYPE OF PRIMARY CARE SERVICES THE PATIENT REQUIRES; AND

22 (III) MAY DISCONTINUE CARE FOR A DIRECT PRIMARY CARE
23 PATIENT IF:

24 1. THE PRIMARY CARE PROVIDER PROVIDES THE
25 PATIENT NOTICE AND OPPORTUNITY TO OBTAIN CARE FROM ANOTHER PRIMARY
26 CARE PROVIDER; AND

27 2. A. THE PATIENT FAILS TO PAY THE PERIODIC FEE
28 REQUIRED BY THE AGREEMENT;

B. THE PATIENT HAS PERFORMED AN ACT OF FRAUD;

**C. THE PATIENT REPEATEDLY FAILS TO ADHERE TO THE
RECOMMENDED TREATMENT PLAN;**

**D. THE PATIENT IS ABUSIVE AND PRESENTS AN
EMOTIONAL OR PHYSICAL DANGER TO THE STAFF OR OTHER PATIENTS OF THE
PRIMARY CARE PROVIDER; OR**

**E. THE PRIMARY CARE PROVIDER DISCONTINUES
PROVIDING ANY PRIMARY CARE SERVICES UNDER ANY DIRECT PRIMARY CARE
AGREEMENT.**

(p) (3) "Health insurance" does not include:

(I) workers' compensation insurance; OR

(II) A DIRECT PRIMARY CARE AGREEMENT.

10–103.

(b) The licensing requirements of this section do not apply to:

(7) a person who is not a resident of the State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under the contract if:

(i) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business; and

(ii) the contract insures risks located in that state; [or]

(8) a salaried, full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission; **OR**

**(9) A PRIMARY CARE PROVIDER, OR AN AGENT OF THE PRIMARY CARE
PROVIDER, THAT PROVIDES PRIMARY CARE SERVICES IN ACCORDANCE WITH A
DIRECT PRIMARY CARE AGREEMENT.**

11–601.

(a) In this subtitle the following words have the meanings indicated.

(d) (2) “Health benefit plan” does not include:

(iii) the following benefits if offered as independent, noncoordinated benefits:

1. coverage only for a specified disease or illness; and

2. hospital indemnity or other fixed indemnity insurance;

[or]

(iv) the following benefits if offered as a separate policy, certificate, or contract of insurance:

1. Medicare supplemental health insurance, as defined in § 1882(g)(1) of the Social Security Act;

2. coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

3. similar supplemental coverage provided to coverage under an employer sponsored plan; **OR**

(V) A DIRECT PRIMARY CARE AGREEMENT.

14–101.1.

THIS SUBTITLE DOES NOT APPLY TO A DIRECT PRIMARY CARE AGREEMENT.

15–101.

This title does not apply to:

(1) a policy of liability or workers’ compensation and employer’s liability insurance;

(2) a group or blanket policy, except as otherwise provided in this title;

(3) reinsurance; [or]

(4) a life insurance, endowment, or annuity contract, or contract supplemental to a life insurance, endowment, or annuity contract that contains only those provisions relating to health insurance that:

(i) provide additional benefits in case of dismemberment, loss of sight, or death by accident or accidental means;

(ii) provide additional benefits for long-term home health care and long-term care in a nursing home or other related institution; or

(iii) operate to safeguard the contract or supplemental contract against lapse or to provide a special surrender value, special benefit, or annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract; **OR**

(5) A DIRECT PRIMARY CARE AGREEMENT.

18–101.

(a) In this title the following words have the meanings indicated.

(f) (3) “Long-term care insurance” does not include:

(ii) a life insurance policy that:

1. accelerates the death benefit specifically for:

A. one or more of the qualifying events of terminal illness;

B. a medical condition that requires extraordinary medical intervention; or

C. permanent institutional confinement;

2. provides the option of lump-sum payments for the benefits listed in item 1 of this subparagraph; or

3. does not make benefits or eligibility for benefits conditional on receipt of long-term care; [or]

(iii) a certificate that is issued under an out-of-state employer group contract; **OR**

(IV) A DIRECT PRIMARY CARE AGREEMENT.

31–101.

(a) In this title the following words have the meanings indicated.

(g) **(6) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE A DIRECT PRIMARY CARE AGREEMENT.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.