



2019 ASSEMBLY BILL 26

1 **AN ACT to create** 146.78 and 600.01 (1) (b) 13. of the statutes; **relating to:** direct
2 primary care agreements.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 146.78 of the statutes is created to read:
4 **146.78 Direct primary care agreement. (1) DEFINITIONS.** In this section:
5 (a) “Direct primary care agreement” means a contract between a health care
6 provider and an individual patient or his or her legal representative or an employer
7 in which the health care provider agrees to provide primary care services to the
8 individual patient or employee for an agreed-upon subscription fee and period of
9 time.
10 (b) “Health care provider” means a health care provider under s. 146.81 (1) (a)
11 to (p) that provides primary care services under the provider’s scope of practice.

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1 (c) "Primary care services" means outpatient, general health care services of
2 the type provided by a main source for regular health care services for patients at the
3 time a patient seeks preventive care or first seeks health care services for a specific
4 health concern and includes all of the following:

5 1. Care that promotes and maintains mental and physical health and wellness.

6 2. Care that prevents disease.

7 3. Screening, diagnosing, and treating acute or chronic conditions caused by
8 disease, injury, or illness.

9 4. Patient counseling and education.

10 5. Provision of a broad spectrum of preventive and curative health care over a
11 period of time.

12 6. Coordination of care.

13 **(2) VALID AGREEMENT.** A health care provider and an individual patient or his
14 or her legal representative or an employer may enter into a direct primary care
15 agreement. A valid direct primary care agreement meets all of the following criteria:

16 (a) The agreement is in writing.

17 (b) The agreement is signed by the health care provider or an agent of the
18 health care provider and the individual patient, the patient's legal representative,
19 or a representative of the employer.

20 (c) The agreement allows either party to the agreement to terminate the
21 agreement upon written notice to the other party.

22 (d) The agreement describes and quantifies the specific primary care services
23 that are provided under the agreement.

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1 (e) The agreement specifies the subscription fee for the agreement and specifies
2 terms for termination of the agreement, including any possible refund of fees to the
3 patient.

4 (f) The agreement specifies the duration of the agreement.

5 (g) The agreement prominently states, in writing, that the agreement is not
6 health insurance and that the agreement alone may not satisfy individual or
7 employer insurance coverage requirements under federal law.

8 (h) The health care provider and the patient are prohibited from billing an
9 insurer or any other 3rd party on a fee-for-service basis for the primary care services
10 included in the subscription fee under the agreement.

11 (i) The agreement prominently states, in writing, that the individual patient
12 or the employer, if applicable, is responsible for paying the provider for all services
13 that are not included in the subscription fee under the agreement.

14 (j) The agreement prominently states, in writing, that the patient is
15 encouraged to consult with his or her health insurance carrier, if the patient has
16 health insurance, before entering into the agreement, that some services provided
17 under the agreement may be covered under any health insurance the patient has,
18 and that direct primary care fees might not be credited toward deductibles or
19 out-of-pocket maximum amounts under the patient's health insurance, if the
20 patient has health insurance.

21 **(3) PATIENT SELECTION.** In selecting patients with whom to enter into a direct
22 primary care agreement, a health care provider may not discriminate on the basis
23 of existence of a preexisting medical condition or health status or a basis specified
24 in s. 51.90, except that a health care provider is not required to enter into an
25 agreement with a patient whose medical condition is such that the health care

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1 provider is unable to provide the appropriate level and type of health care services.
2 A health care provider may base subscription fees under a direct primary care
3 agreement on age.

4 (4) INSURANCE NETWORK PARTICIPATION. A health care provider who has a
5 practice in which he or she enters into direct primary care agreements may
6 participate in a network of a health insurance carrier only to the extent that the
7 provider is willing and able to comply with the terms of the participation agreement
8 with the carrier and meet any other terms and conditions of network participation
9 as determined by the health insurance carrier.

10 (5) CONSTRUCTION. Nothing in this section shall be construed to limit the
11 regulatory authority of the department of safety and professional services or the
12 department of agriculture, trade and consumer protection. Nothing in this section
13 shall be construed to limit the authority of the office of the commissioner of insurance
14 to regulate contracts that do not satisfy the criteria to be a valid direct primary care
15 agreement under s. 146.78 (2) and that meet the definition of insurance under s.
16 600.03 (25).

17 **SECTION 2.** 600.01 (1) (b) 13. of the statutes is created to read:

18 600.01 (1) (b) 13. Valid direct primary care agreements under s. 146.78 (2).

19 (END)