

**2019 Assembly Bill 26 (LRB -1202)**

An Act to create 146.78 and 600.01 (1) (b) 13. of the statutes; relating to: direct primary care agreements.

**2019**

02-19. A. Introduced by Representatives **Sanfelippo, Brooks, Dittrich, Duchow, Felzkowski, Gundrum, Horlacher, Hutton, Jagler, Katsma, Kitchens, Knodl, Kuglitsch, Kulp, Loudenbeck, Murphy, Novak, Petersen, Plumer, Quinn, Ramthun, Rohrkaste, Skowronski, Sortwell, Spiros, Stafsholt, Tauchen, Thiesfeldt, Tittl, Tusler, VanderMeer, Vorpapel and Wichgers**; cosponsored by Senators **Kapenga, Darling, Tiffany, Bernier, Craig, Kooyenga, Nass and Stroebel**. ..... 47

02-19. A. Read first time and referred to Committee on Small Business Development ..... 47

04-11. A. Representative James added as a coauthor ..... 102

09-04. A. Public hearing held

09-04. A. Representative Edming added as a coauthor ..... 267

09-12. A. Representative Allen added as a coauthor ..... 276

09-24. A. Assembly Amendment 1 offered by Representatives Sargent and Sanfelippo (**LRB a0533**) ..... 287

09-24. A. Representative Allen withdrawn as a coauthor ..... 288

10-02. A. Executive action taken

**2020**

01-16. A. Report Assembly Amendment 1 adoption recommended by Committee on Small Business Development, Ayes 14, Noes 0 ..... 477

01-16. A. Report passage as amended recommended by Committee on Small Business Development, Ayes 13, Noes 1 ..... 477

01-16. A. Referred to committee on Rules ..... 477

01-16. A. Placed on calendar 1-21-2020 by Committee on Rules

01-21. A. Read a second time ..... 487

01-21. A. Assembly Amendment 1 **adopted** ..... 487

01-21. A. Assembly Amendment 2 offered by Representative Sanfelippo (**LRB a0939**) ..... 487

01-21. A. Assembly Amendment 2 **adopted**, Ayes 61, Noes 36 ..... 487

01-21. A. Ordered to a third reading ..... 487

01-21. A. Rules suspended ..... 487

01-21. A. Read a third time and **passed**, Ayes 61, Noes 36 ..... 487

01-21. A. Representative Petryk added as a coauthor ..... 487

01-21. A. Ordered immediately messaged ..... 487

01-22. S. Received from Assembly ..... 604

01-27. S. Read first time and referred to committee on Senate Organization ..... 615

01-27. S. Available for scheduling

02-14. S. Public hearing requirement waived by committee on Senate Organization, pursuant to Senate Rule 18 (1n), Ayes 5, Noes 0 ..... 678

02-14. S. Placed on calendar 2-19-2020 pursuant to Senate Rule 18(1) ..... 678

02-19. S. Senate Amendment 1 offered by Senators Hansen, Shilling, Bewley, Miller, Risser, Erpenbach, Carpenter, Larson and Ringhand (**LRB a1291**)

02-19. S. Senate Amendment 2 offered by Senators Carpenter, Ringhand, L. Taylor, Risser and Johnson (**LRB a1271**)

02-19. S. Read a second time

02-19. S. Senate Amendment 1 laid on table, Ayes 19, Noes 14

02-19. S. Senate Amendment 1 laid on table, Ayes 19, Noes 14

02-19. S. Move to call the question, Ayes 19, Noes 14

02-19. S. Ordered to a third reading

02-20. S. Read a third time

02-20. S. Move to call the question, Ayes 19, Noes 14

02-20. S. **Concurred in**, Ayes 20, Noes 13

02-20. S. Move to call the question

02-20. S. Refused to reconsider vote by which Assembly Bill 26 was concurred in offered by Senator Fitzgerald, Ayes 12, Noes 21 (**LRB -1202**)

02-20. S. Messaged

02-20. A. Received from Senate concurred in

DW



19en A B- 26

**ENROLLED BILL**

**Adopted Documents**

Original

Engrossed

Substitute Amdt

19 1202 / 1

Amendments:  None or  Listed below.

AA 1

AA 2

Corrections:  None or  Listed by date below.

AA 2 - 2/21/20

Topic:  Same as relating clause or  Indicated below.

2/21/20

Date

Enrolling Drafter



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-1202/1  
TJD:kjf

## 2019 ASSEMBLY BILL 26

February 19, 2019 - Introduced by Representatives SANFELIPPO, BROOKS, DITTRICH, DUCHOW, FELZKOWSKI, GUNDRUM, HORLACHER, HUTTON, JAGLER, KATZMA, KITCHENS, KNODL, KUGLITSCH, KULP, LOUDENBECK, MURPHY, NOVAK, PETERSEN, PLUMER, QUINN, RAMTHUN, ROHRKASTE, SKOWRONSKI, SORTWELL, SPIROS, STAFSHOLT, TAUCHEN, THIESFELDT, TITTL, TUSLER, VANDERMEER, VORPAGEL and WICHGERS, cosponsored by Senators KAPENGA, DARLING, TIFFANY, BERNIER, CRAIG, KOOYENGA, NASS and STROEBEL. Referred to Committee on Small Business Development.

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*

This bill exempts valid direct primary care agreements from the application of insurance law. A direct primary care agreement, as defined in the bill, is a contract between a health care provider that provides primary care services under the provider's scope of practice and an individual patient, or his or her legal representative, or an employer in which the health care provider agrees to provide primary care services to the patient or employee for an agreed-upon subscription fee and period of time. A valid direct primary care agreement is signed and in writing and does all of the following: 1) allows either party to terminate the agreement upon written notice and specifies the terms for termination and the subscription fee; 2) describes and quantifies the specific primary care services that are provided under the agreement; 3) specifies the duration of the agreement; 4) prominently states that the agreement is not health insurance and may not satisfy insurance coverage requirements under federal law; 5) prohibits the provider and patient from billing an insurer or any other third party on a fee-for-service basis for the primary care services included in the subscription fee under the agreement; 6) prominently states that the individual patient, or employer if applicable, is responsible for paying the provider for all services that are not included in the subscription fee under the agreement; and 7) prominently states that the patient is urged to consult with any health insurance carrier the patient has before entering the agreement, that some services provided under the agreement may be covered by any health insurance the

**ASSEMBLY BILL 26**

patient has, and that direct primary care fees may not be credited toward deductibles or out-of-pocket maximum amounts under any health insurance the patient has. The bill prohibits a health care provider from discriminating on the basis of age, citizenship status, color, disability, gender or gender identity, genetic information, health status, existence of a preexisting medical condition, national origin, religion, sex, sexual orientation, or any other protected class when selecting patients for entering into direct primary care agreements. The health care provider, however, may base subscription fees under a direct primary care agreement on age.

---

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

1           **SECTION 1.** 146.78 of the statutes is created to read:

2           **146.78 Direct primary care agreement. (1) DEFINITIONS.** In this section:

3           (a) "Direct primary care agreement" means a contract between a health care  
4 provider and an individual patient or his or her legal representative or an employer  
5 in which the health care provider agrees to provide primary care services to the  
6 individual patient or employee for an agreed-upon subscription fee and period of  
7 time.

8           (b) "Health care provider" means a health care provider under s. 146.81 (1) (a)  
9 to (p) that provides primary care services under the provider's scope of practice.

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

- 14           1. Care that promotes and maintains mental and physical health and wellness.
- 15           2. Care that prevents disease.
- 16           3. Screening, diagnosing, and treating acute or chronic conditions caused by  
17 disease, injury, or illness.
- 18           4. Patient counseling and education.

**ASSEMBLY BILL 26****SECTION 1**

1           5. Provision of a broad spectrum of preventive and curative health care over a  
2 period of time.

3           6. Coordination of care.

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

7           (a) The agreement is in writing.

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

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

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

15           (e) The agreement specifies the subscription fee for the agreement and specifies  
16 terms for termination of the agreement, including any possible refund of fees to the  
17 patient.

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

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

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

**ASSEMBLY BILL 26**

**SECTION 1**

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

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

11 (3) PATIENT SELECTION. In selecting patients with whom to enter into a direct  
 12 primary care agreement, a health care provider may not discriminate on the basis  
 13 of age, citizenship status, color, disability, gender or gender identity, genetic  
 14 information, health status, existence of a preexisting medical condition, national  
 15 origin, race, religion, sex, sexual orientation, or any other protected class. A health  
 16 care provider may base subscription fees under a direct primary care agreement on  
 17 age.

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

INS  
 AA  
 2  
 1.

AA-2  
 1.





State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBa0533/1  
TJD:skw

**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 26**

September 20, 2019 - Offered by Representatives SARGENT and SANFELIPPO.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 5, line 3: after "protection." insert "Nothing in this section shall be  
3 construed to limit the authority of the office of the commissioner of insurance to  
4 regulate contracts that do not satisfy the criteria to be a valid direct primary care  
5 agreement under s. 146.78 (2) and that meet the definition of insurance under s.  
6 600.03 (25)."

7 (END)

INS  
AAL  
L.





State of Wisconsin  
2019-2020 LEGISLATURE

**CORRECTIONS IN:**

**ASSEMBLY AMENDMENT 2,  
TO ASSEMBLY BILL 26**

Prepared by the Legislative Reference Bureau  
(February 21, 2020)

In enrolling, the following correction was made:

1. Page 1, line 4: after "enter" insert "into".

(END)



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBa0939/1  
TJD:ahc

ASSEMBLY AMENDMENT 2,  
TO ASSEMBLY BILL 26

January 21, 2020 - Offered by Representative SANFELIPPO.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 13: delete lines 13 to 15 and substitute "of existence of a  
3 preexisting medical condition or health status or a basis specified in s. 51.90, except  
4 that a health care provider is not required to enter <sup>into</sup> an agreement with a patient  
5 whose medical condition is such that the health care provider is unable to provide  
6 the appropriate level and type of health care services. A health".

7 (END)

INS  
AA 2  
1.

ccc