



# Tony Evers

Office of the Governor | State of Wisconsin

February 28, 2020

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I am vetoing 2019 Assembly Bill 26 in its entirety.

This bill relates to direct primary care agreements, which is an arrangement where a health care provider agrees to provide primary care services to a patient in exchange for a subscription fee. Under the bill, requirements would be established for a valid direct primary care agreement and valid direct primary care agreements would be exempt from Wisconsin's insurance laws. Originally, the bill would have prohibited a health care provider, when selecting patients for a direct primary care agreement, from discriminating on the basis of age, citizenship status, color, disability, gender, gender identity, genetic information, health status, existence of a preexisting medical condition, national origin, race, religion, sex, sexual orientation, or any other protected class. However, many of these protections were removed by an amendment. The current bill provides that a health care provider would only be prohibited from discriminating based on a preexisting medical condition, health status, age, race, creed, color, sex, or disability.

I am vetoing this bill in its entirety because I object to the Legislature removing discrimination protections for certain individuals. In addition, I object to allowing a health care provider to choose not to enter into a direct primary care agreement with a patient based on the patient's genetics, national origin, gender identity, citizenship status, or whether the patient is LGBTQ. I believe that all individuals should be treated equally.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tony Evers'.

Tony Evers  
Governor

# State of Wisconsin



2019 Assembly Bill 26

Date of enactment:  
Date of publication\*:

## 2019 WISCONSIN ACT

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

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

**SECTION 1.** 146.78 of the statutes is created to read:  
**146.78 Direct primary care agreement. (1) DEFINITIONS.** In this section:

(a) "Direct primary care agreement" means a contract between a health care provider 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 individual patient or employee for an agreed-upon subscription fee and period of time.

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

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

1. Care that promotes and maintains mental and physical health and wellness.
2. Care that prevents disease.
3. Screening, diagnosing, and treating acute or chronic conditions caused by disease, injury, or illness.
4. Patient counseling and education.
5. Provision of a broad spectrum of preventive and curative health care over a period of time.

6. Coordination of care.

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

(a) The agreement is in writing.

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

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

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

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

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

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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

level and type of health care services. A health care provider may base subscription fees under a direct primary care agreement on age.

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

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

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

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

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