

**WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2301**

BY DELEGATES SUMMERS AND ELLINGTON

[Passed March 15, 2017; in effect ninety days from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2017 MAR 23 P 4: 10

FILED

HB 2301

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BY DELEGATES SUMMERS AND ELLINGTON

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1 AN ACT to repeal §16-2J-1, §16-2J-2, §16-2J-3, §16-2J-4, §16-2J-5, §16-2J-6, §16-2J-7, §16-  
2 2J-8 and §16-2J-9 of the Code of West Virginia, 1931, as amended; and to amend said  
3 code by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-  
4 4 and §30-3F-5, all relating to direct primary care; defining terms; permitting individuals to  
5 enter into agreements, for direct primary care with an individual or other legal entity  
6 authorized to provide primary care services, outside of an insurance plan or outside of the  
7 Medicaid or Medicare program and pay for the care outside of insurance plans and the  
8 Medicaid or Medicare program; providing that insurance benefits are not forfeited by  
9 certain purchases; providing that certain products are not the offer of insurance; providing  
10 that direct primary care membership agreement is not considered insurance; prohibiting  
11 direct primary care providers from billing third-party payers for services or products under  
12 the direct primary care membership agreement; providing that a direct primary care  
13 provider is not required to obtain certain credentials; prohibiting the billing of third-party  
14 providers for direct primary care services; stating certain requirements for direct primary  
15 care membership agreement; providing rule-making authority by the West Virginia Board  
16 of Medicine, the West Virginia Board of Osteopathic Medicine, the West Virginia Board of  
17 Dentistry, the West Virginia Board of Chiropractic and the West Virginia Board of  
18 Examiners for Registered Professional Nurses to effectuate the provisions of this new  
19 article; and authorizing civil penalties in the form of sanctions by the respective boards for  
20 violations that constitute unprofessional conduct.

*Be it enacted by the Legislature of West Virginia:*

1 That §16-2J-1, §16-2J-2, §16-2J-3, §16-2J-4, §16-2J-5, §16-2J-6, §16-2J-7, §16-2J-8 and  
2 §16-2J-9 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be  
3 amended by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4  
4 and §30-3F-5, all to read as follows:

**ARTICLE 3F. DIRECT PRIMARY CARE PRACTICE.**

**§30-3F-1. Definitions.**

1 As used in this section:

2 (1) "Boards" means the West Virginia Board of Medicine; the West Virginia Board of  
3 Osteopathic Medicine, the West Virginia Board of Optometry, West Virginia Board of Chiropractic,  
4 West Virginia Board of Dentistry and the West Virginia Board of Examiners for Registered  
5 Professional Nurses;

6 (2) "Direct primary care membership agreement" means a written contractual agreement  
7 between a primary care provider and a person, or the person's legal representative;

8 (3) "Direct primary care provider" means an individual or legal entity, alone or with others  
9 professionally associated with the provider or other legal entity, that is authorized to provide  
10 primary care services and who chooses to enter into a direct primary care membership  
11 agreement;

12 (4) "Medical products" means any product used to diagnose or manage a disease,  
13 including any medical device, treatment or drug;

14 (5) "Medical services" means a screen, assessment, diagnosis or treatment for the  
15 purpose of promotion of health or the detection and management of disease or injury within the  
16 competency and training of the direct primary care provider; and

17 (6) "Primary care provider" means an individual or other legal entity that is authorized to  
18 provide medical services and medical products under his or her scope of practice in this state.

**§30-3F-2. Direct Primary Care.**

1 (a) A person or a legal representative of a person may seek care outside of an insurance  
2 plan, or outside of the Medicaid or Medicare program, and pay for the care.

3 (b) A primary care provider may accept payment for medical services or medical products  
4 outside of an insurance plan.

5 (c) A primary care provider may accept payment for medical services or medical products  
6 provided to a Medicaid or Medicare beneficiary.

7 (d) A patient or legal representative does not forfeit insurance benefits, Medicaid benefits  
8 or Medicare benefits by purchasing medical services or medical products outside the system.

9 (e) The offer and provision of medical services or medical products purchased and  
10 provided under this article is not an offer of insurance nor regulated by the insurance laws of the  
11 state.

12 (f) The direct primary care provider may not bill third parties on a fee for service basis for  
13 services provided under the direct primary care membership agreement.

14 (g) A primary care provider may not bill any third-party payer for services rendered or  
15 products sold pursuant to a direct primary care membership agreement.

**§30-3F-3. Prohibited and authorized practices.**

1 (a) A direct primary care membership agreement is not insurance and is not subject to  
2 regulation by the Office of the Insurance Commission.

3 (b) A direct primary care provider or its agent is not required to obtain a certification of  
4 authority or license under chapter thirty-three to market, sell or offer to sell a direct primary care  
5 agreement.

6 (c) A direct primary care membership agreement is not a discount medical plan.

7 (d) A direct primary care membership agreement shall:

8 (1) Be in writing;

9 (2) Be signed by the primary care provider or agent of the primary care provider and the  
10 individual patient or his or her legal representative;

11 (3) Allow either party to terminate the agreement on at least 30 days prior written notice  
12 to the other party;

13 (4) Describe the scope of primary care services that are covered by the periodic fee;

14           (5) Specify the periodic fee and any additional fees outside of the periodic fee for ongoing  
15 care under the agreement;

16           (6) Specify the duration of the agreement and any automatic renewal periods. Any per-  
17 visit charges under the agreement will be less than the monthly equivalent of the periodic fee.  
18 The person is not required to pay more than twelve months of the fee in advance. Funds are not  
19 earned by the practice until the month of ongoing care is completed. Upon discontinuing the  
20 agreement all unearned funds are returned to the patient; and

21           (7) Prominently state in writing that the agreement is not health insurance.

**§30-3F-4. Rules.**

1           The boards may propose rules for legislative approval in accordance with article three,  
2 chapter twenty-nine-a of this code, to effectuate the provisions of this article.

**§30-3F-5. Violations.**

1           Violations of this article constitute unprofessional conduct and may subject violators to  
2 sanctions which may be pursued by the boards.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman, House Committee

*[Signature]*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Speaker of the House of Delegates

*[Signature]*  
.....  
President of the Senate

FILED  
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within *is approved* this the *23rd*  
day of *March*, 2017.

*[Signature]*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAY 1 2007

Time 3:17pm