

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2301

BY DELEGATES ELLINGTON AND SUMMERS

[Introduced February 9, 2017; Referred
to the Committee on Health and Human Resources then
the Judiciary]

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 2 §16-2J-9 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be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

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

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

11 (4) "Medical products" means medical drugs and pharmaceuticals;

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

15 (6) "Primary care provider" means an individual or other legal entity that is authorized to
16 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.

§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 written notice to the other party;

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

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

15 (6) Specify the duration of the agreement and any automatic renewal periods. Any per-
16 visit charges under the agreement will be less than the monthly equivalent of the periodic fee.

17 The person is not required to pay more than twelve months of the fee in advance. Funds are not
18 earned by the practice until the month of ongoing care is completed. Upon discontinuing the
19 agreement all unearned funds are returned to the patient; and

20 (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.

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

NOTE: The purpose of this bill is to permit individuals to enter into agreements, for direct primary care with an individual or other legal entity authorized to provide primary care services, outside of an insurance plan or outside of the Medicaid or Medicare program and pay for the care. The bill provides that a direct primary care membership agreement is not considered insurance and that a direct primary care provider is not required to obtain certain credentials or licensing. The bill prohibits the billing of third party providers for direct primary care services. It details requirements for a direct primary care membership agreement. The bill permits rule-making authority by the West Virginia Board of Medicine; the West Virginia Board of Osteopathic Medicine and the West Virginia Board of Examiners for Registered Professional Nurses to effectuate the provisions of this new article. And the bill authorizes civil penalties in the form of sanctions by the respective boards for violations that constitute unprofessional conduct.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.