

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 2, 2017
Date

Committee on Health, Insurance, & Environment.

After consideration on the merits, the Committee recommends the following:

HB17-1115 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby finds that:

5 (a) It is the public policy of the state of Colorado to promote
6 access to medical care for all its citizens by encouraging innovative,
7 cost-saving arrangements;

8 (b) Direct primary care providers use a model of health care
9 delivery based on a periodic fee for a specified period of time, rather than
10 a fee-for-service arrangement financed through health insurance; and

11 (c) Direct primary care services represent an option that can
12 improve access to affordable primary care services, thereby increasing the
13 health and well-being of patients.

14 (2) Therefore, it is the intent of the general assembly to establish
15 direct primary health care agreements to operate without regulation by the
16 division of insurance.

17 **SECTION 2.** In Colorado Revised Statutes, **add 6-1-728** as
18 follows:

19 **6-1-728. Primary care agreements - providers - discrimination**
20 **- definitions.** (1) AS USED IN THIS SECTION:

21 (a) "DIRECT PRIMARY CARE AGREEMENT" MEANS A WRITTEN
22 AGREEMENT THAT:

23 (I) IS BETWEEN A PATIENT, HIS OR HER LEGAL REPRESENTATIVE, A

1 GOVERNMENT ENTITY, OR A PATIENT'S EMPLOYER AND A DIRECT PRIMARY
2 HEALTH CARE PROVIDER;

3 (II) DISCLOSES AND DESCRIBES TO THE PATIENT AND TO THE
4 PERSON PAYING THE DIRECT PRIMARY CARE FEE THE PRIMARY CARE
5 SERVICES TO BE PROVIDED IN EXCHANGE FOR PAYMENT OF A PERIODIC FEE;

6 (III) SPECIFIES THE PERIODIC FEE REQUIRED AND ANY ADDITIONAL
7 FEES THAT MAY BE CHARGED;

8 (IV) MAY ALLOW THE PERIODIC FEE AND ANY ADDITIONAL FEES TO
9 BE PAID BY A THIRD PARTY;

10 (V) PROHIBITS THE PROVIDER FROM SUBMITTING A
11 FEE-FOR-SERVICE CLAIM FOR PAYMENT TO A HEALTH INSURANCE ISSUER
12 FOR PRIMARY CARE SERVICES COVERED UNDER THE AGREEMENT AND
13 STATES THAT SOME SERVICES MAY BE A COVERED BENEFIT OR COVERED
14 SERVICE UNDER THE PATIENT'S HEALTH BENEFIT PLAN AS DEFINED IN
15 SECTION 10-16-102, AT NO COST TO THE PATIENT;

16 (VI) CONSPICUOUSLY AND PROMINENTLY DISCLOSES TO ALL
17 PARTIES SUBJECT TO THE AGREEMENT THAT IT IS NOT HEALTH INSURANCE
18 AND DOES NOT MEET ANY INDIVIDUAL HEALTH BENEFIT PLAN MANDATE
19 THAT MAY BE REQUIRED BY FEDERAL LAW AND THE PATIENT IS NOT
20 ENTITLED TO HEALTH INSURANCE PROTECTIONS FOR CONSUMERS UNDER
21 TITLE 10; AND

22 (VII) ALLOWS EITHER PARTY TO TERMINATE THE AGREEMENT, IN
23 WRITING AND WITH NOTICE, AS SPECIFIED IN THE AGREEMENT AND
24 SUBJECT TO REFUND TERMS AND CONDITIONS IN THE AGREEMENT.

25 (b) "PRIMARY CARE SERVICE" INCLUDES THE SCREENING,
26 ASSESSMENT, DIAGNOSIS, AND TREATMENT FOR THE PURPOSE OF
27 PROMOTION OF HEALTH OR THE DETECTION AND MANAGEMENT OF DISEASE
28 OR INJURY WITHIN THE COMPETENCY AND TRAINING OF THE PRIMARY CARE
29 PROVIDER.

30 (c) "DIRECT PRIMARY HEALTH CARE PROVIDER" MEANS AN
31 INDIVIDUAL OR LEGAL ENTITY THAT IS LICENSED UNDER ARTICLE 36 OR 38
32 OF TITLE 12 TO PROVIDE PRIMARY CARE SERVICES IN THIS STATE AND WHO
33 ENTERS INTO A DIRECT PRIMARY CARE AGREEMENT. "DIRECT PRIMARY
34 HEALTH CARE PROVIDER" INCLUDES AN INDIVIDUAL PRIMARY CARE
35 PROVIDER OR OTHER LEGAL ENTITY, ALONE OR WITH OTHERS
36 PROFESSIONALLY ASSOCIATED WITH THE INDIVIDUAL OR OTHER LEGAL
37 ENTITY.

38 (2) (a) DIRECT PRIMARY CARE IS NOT INSURANCE AND IS NOT
39 REGULATED BY THE COMMISSIONER OF INSURANCE PURSUANT TO TITLE 10.

40 (b) DIRECT PRIMARY CARE PROVIDERS AND DIRECT PRIMARY CARE
41 AGREEMENTS THAT COMPLY WITH THIS ARTICLE 1 SHALL NOT BE

1 CONSIDERED TO BE A HEALTH MAINTENANCE ORGANIZATION, INSURER,
2 INSURANCE PRODUCER, OR INSURANCE AND ARE NOT SUBJECT TO TITLE 10.

3 (c) OFFERING OR ENTERING INTO A DIRECT PRIMARY CARE
4 AGREEMENT IS NOT THE BUSINESS OF INSURANCE OR THE PRACTICE OF
5 UNDERWRITING.

6 (d) A DIRECT PRIMARY HEALTH CARE PROVIDER OR AGENT OF A
7 DIRECT PRIMARY HEALTH CARE PROVIDER IS NOT REQUIRED TO OBTAIN A
8 CERTIFICATE OF AUTHORITY OR LICENSE TO MARKET, SELL, OR OFFER TO
9 SELL A DIRECT PRIMARY CARE AGREEMENT.

10 (3) A DIRECT PRIMARY CARE PROVIDER MAY:

11 (a) DECLINE TO ACCEPT PATIENTS WHOSE HEALTH NEEDS EXCEED
12 THE PRIMARY CARE SERVICES OFFERED BY THE DIRECT PRIMARY HEALTH
13 CARE PROVIDER; AND

14 (b) TERMINATE A DIRECT PRIMARY CARE AGREEMENT IF THE
15 TERMINATION ALLOWS FOR THE TRANSITION OF CARE TO ANOTHER HEALTH
16 CARE PROVIDER COMMENSURATE WITH THE STANDARDS OF PROFESSIONAL
17 RESPONSIBILITY WITHIN THE STATE.

18 (4)(a) A DIRECT PRIMARY CARE PROVIDER MAY NOT DISCRIMINATE
19 IN THE SELECTION OF PATIENTS ON THE BASIS OF AGE, CITIZENSHIP STATUS,
20 COLOR, DISABILITY, GENDER OR GENDER IDENTITY, GENETIC
21 INFORMATION, HEALTH STATUS, NATIONAL ORIGIN, RACE, RELIGION, SEX,
22 SEXUAL ORIENTATION, OR ANY OTHER PROTECTED CLASS.

23 (b) A DIRECT PRIMARY CARE PROVIDER MAY NOT ENTER INTO A
24 DIRECT PRIMARY CARE AGREEMENT WITH A PERSON WHO IS CURRENTLY A
25 RECIPIENT OF MEDICAID SERVICES.

26 (5) THIS SECTION DOES NOT PREVENT A DIRECT PRIMARY CARE
27 PROVIDER FROM PROVIDING PRIMARY CARE TO PATIENTS WHO ARE NOT
28 PARTY TO A DIRECT PRIMARY CARE AGREEMENT.

29 **SECTION 3. Act subject to petition - effective date.** This act
30 takes effect at 12:01 a.m. on the day following the expiration of the
31 ninety-day period after final adjournment of the general assembly (August
32 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
33 referendum petition is filed pursuant to section 1 (3) of article V of the
34 state constitution against this act or an item, section, or part of this act
35 within such period, then the act, item, section, or part will not take effect
36 unless approved by the people at the general election to be held in
37 November 2018 and, in such case, will take effect on the date of the
38 official declaration of the vote thereon by the governor."

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