

SENATE BILL NO. 127

BY SENATOR LONG

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 37:798, relative to direct primary care agreements with a dental practice; to provide definitions; to set forth the written requirements for direct primary care agreements with a dental practice; to provide that a direct primary care agreement does not constitute health or dental insurance; to provide for prohibited and authorized practices; to provide terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:798 is hereby enacted to read as follows:

**§798. Direct primary care agreement with a dental practice**

**A. As used in this Section, the following words have the meanings ascribed to them unless the context requires otherwise:**

**(1) "Board" means the Louisiana State Board of Dentistry.**

**(2) "Dentist" means a person licensed to practice dentistry in this state.**

**(3) "Direct primary care agreement" means a written agreement between a direct dental practice and a patient or his or her legal representative whereby the direct dental practice agrees to provide dental services to the patient for an agreed upon fee and period of time.**

**(4) "Direct dental practice" means a dentist or dental practice of a dentist that charges a periodic fee for dental services and which does not bill a third party, including any entity subject to regulation under Title 22 of the Louisiana Revised Statutes of 1950, for any additional fee for services for**

1 patients covered under a direct primary care agreement. The per visit charge  
2 of the practice shall be less than the monthly equivalent of the periodic fee.

3 B. A direct primary care agreement that complies with the provisions of  
4 this Section is not health or dental insurance and is not subject to the provisions  
5 or regulations provided for under Title 22 of the Louisiana Revised Statutes of  
6 1950.

7 C. A patient or legal representative shall not forfeit any insurance  
8 benefits, Medicaid benefits, or Medicare benefits by purchasing healthcare  
9 services or products outside the system.

10 D. A direct dental practice offering, marketing, selling, or entering into  
11 a direct primary care agreement shall not be required to obtain a certificate of  
12 authority or license other than to maintain a current license to practice  
13 dentistry in this state.

14 E. To be considered a direct primary care agreement for the purposes  
15 of this Section, the agreement shall satisfy all of the following:

16 (1) Be in writing.

17 (2) Be signed by a dentist, or agent of the dentist, and the patient, or his  
18 or her legal representative.

19 (3) Allow either party to terminate the agreement upon written notice of  
20 at least thirty days to the other party.

21 (4) Describe the scope of dental services that are covered by the periodic  
22 fee.

23 (5) Specify the periodic fee and any additional fees outside of the periodic  
24 fee for ongoing dental services.

25 (6) Specify the duration of the agreement and any automatic renewal  
26 periods and require that no more than twelve months of the periodic fee be paid  
27 in advance.

28 (7) Prominently state in writing that is conspicuously visible and in bold  
29 font all of the following:

30 (a) The agreement does not constitute health or dental insurance under

1 the laws of this state.

2 (b) Patients insured by health insurance plans that are compliant with  
3 the Patient Protection and Affordable Care Act may already have coverage for  
4 pediatric dental benefits.

5 (c) Payments made by a patient for services rendered under a direct  
6 primary care agreement may not count toward the patient's health insurance  
7 deductibles and maximum out-of-pocket expenses.

8 (d) A patient is encouraged to consult with the patient's health insurance  
9 plan before entering into the agreement and receiving care.

10 (8) Provide that, upon termination of the agreement by the patient, all  
11 unearned fees are to be returned to the patient.

12 F. A direct dental practice may accept payment of periodic fees directly  
13 or indirectly from third-parties. A direct dental practice may accept a periodic  
14 fee paid by an employer on behalf of an employee who is a direct patient.  
15 However, a dental practice shall not enter into a contract with an employer  
16 relating to the direct primary care agreements between the direct dental  
17 practice and employees of that employer other than to establish the timing and  
18 method of the payment of the periodic fee by the employer.

19 G. A direct dental practice shall not decline to accept a new direct  
20 primary care patient or discontinue care to an existing patient solely because of  
21 a patient's health status, race, religion, national origin, the presence of any  
22 sensory, mental or physical disability, education, or economic status. A direct  
23 dental practice may decline to accept a patient if either:

24 (1) In the dentist's opinion, the patient's health condition is such that the  
25 provider is unable to provide the appropriate level and type of dental services  
26 the patient requires.

27 (2) The dental practice has reached its maximum capacity.

28 H. A direct dental practice may discontinue care for patients under the  
29 direct primary care agreement under any of the following conditions:

30 (1) The patient fails to pay the periodic fee.

1           (2) The patient has performed an act of fraud concerning the direct  
2           primary care agreement.

3           (3) The patient repeatedly fails to adhere to the recommended treatment  
4           plan.

5           (4) The patient is abusive or presents an emotional or physical danger to  
6           the staff or other patients of the dental practice.

7           (5) The direct dental practice discontinues operation as a dental practice.

8           I. A direct dental practice shall not:

9           (1) Enter into a participating provider contract with any health or dental  
10          insurance issuer or with any health or dental insurance issuer's contractor or  
11          subcontractor to provide healthcare or dental services through a direct  
12          agreement except as set forth in Subsection J of this Section.

13          (2) Submit a claim for payment to any health or dental insurance issuer  
14          or any health or dental insurance issuer's contractor or subcontractor for  
15          healthcare or dental services provided to direct patients as covered by their  
16          direct agreement.

17          (3) Pay for healthcare or dental services covered by a direct agreement  
18          rendered to direct patients by providers other than the providers in the direct  
19          practice or their employees, except as described in Subsection J of this Section.

20          J. A direct dental practice may:

21          (1) Enter into a participating provider contract with a health or dental  
22          insurance issuer for purposes other than payment of claims for services  
23          provided to direct patients through a direct agreement. Such dentists shall be  
24          subject to all other provisions of the participating provider contract applicable  
25          to participating providers.

26          (2) Pay for charges associated with:

27          (a) Dispensing, at no additional cost to the direct patient, of prescription  
28          drugs prescribed by the direct provider in accordance with state law and  
29          regulations promulgated by the board.

30          (b) Dental laboratory products ordered for a direct patient.

1                    (3) Charge an additional fee to direct patients for supplies, medications,  
 2                    materials, and devices provided to direct patients that are specifically excluded  
 3                    under the agreement, provided the direct practice notifies the direct patient of  
 4                    the additional charge, prior to their administration or delivery.

5                    K. The board may promulgate all rules and regulations that are  
 6                    necessary and proper to effectuate the provisions of this Section.

7                    L. A violation of this Section shall constitute unprofessional conduct  
 8                    under R.S. 37:775 and result in sanctions by the board as authorized in this  
 9                    Chapter.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_