

SENATE BILL NO. 516

BY SENATORS BUFFINGTON, DORSEY-COLOMB, GUILLORY AND MILLS AND
REPRESENTATIVE STUART BISHOP

AN ACT

To enact Part VII of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:1360.81 through 1360.91, relative to direct primary care; to provide for definitions; to provide for prohibitions on discrimination; to provide for direct fees; to provide for prohibited and authorized practices; to provide for acceptance and discontinuation of patients; to provide exemptions from state insurance laws; to provide for business conduct; to provide for annual reports; to provide for violations and penalties; to provide for rules and regulations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part VII of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1360.81 through 1360.91, is hereby enacted to read as follows:

PART VII. DIRECT PRIMARY CARE PRACTICE

§1360.81. Definitions

For the purposes of this Part, the terms stated in this Section have the meanings assigned to them, respectively, unless the context otherwise requires:

(1) "Board" means the Louisiana State Board of Medical Examiners.

(2) "Direct agreement" means a written agreement entered into between a direct practice and an individual direct patient, the parent or legal guardian of the direct patient, or a family of direct patients whereby the direct practice charges a direct fee as consideration for being available to provide and providing primary care services to the individual direct patient. A direct agreement shall describe the specific health care services the direct practice will provide and be terminable at will upon written notice by the direct patient.

(3) "Direct fee" means a fee charged by a direct practice as consideration for being available to provide and providing primary care services as specified

1 in a direct agreement.

2 (4) "Direct patient" means a person who is party to a direct agreement
3 and is entitled to receive primary care services under the direct agreement from
4 the direct practice.

5 (5) "Direct patient-provider primary care practice" and "direct
6 practice" means a physician, group, or entity that meets the following criteria:

7 (a) Is any of the following:

8 (i) A physician who provides primary care services through a direct
9 agreement.

10 (ii) A group of physicians who provide primary care services through a
11 direct agreement.

12 (iii) An entity that sponsors, employs, or is otherwise affiliated with a
13 group of physicians who provide primary care services only through a direct
14 agreement, which entity is wholly owned by the group of physicians or is a
15 nonprofit corporation exempt from taxation under Section 501(c)(3) of the
16 Internal Revenue Code and is not otherwise regulated under Title 22 of the
17 Louisiana Revised Statutes of 1950. Such entity shall not be prohibited from
18 sponsoring, employing, or being otherwise affiliated with other types of health
19 care providers not engaged in a direct practice.

20 (iv) "Direct patient-provider primary care practice" or "direct practice"
21 shall not include an organization or an entity that contracts with a primary care
22 practice for the provision of research, technological, operational, and
23 administrative support, but such an entity or an organization does not provide
24 a direct medical care service.

25 (b) Enters into direct agreements with direct patients or parents or legal
26 guardians of direct patients.

27 (c) Does not accept payment for health care services provided to direct
28 patients from any entity subject to regulation under Title 22 of the Louisiana
29 Revised Statues of 1950.

30 (d) Does not provide, in consideration for a direct fee, services,

1 procedures, or supplies such as prescription drugs except as provided in R.S.
2 37:1360.84(B), hospitalization costs, major surgery, dialysis, high level
3 radiology, including but not limited to X-ray computed tomography, positron
4 emission tomography, magnetic resonance imaging, or invasive radiology,
5 rehabilitation services, procedures requiring general anesthesia, or similar
6 advanced procedures, services, or supplies.

7 (6) "Health insurance issuer" means an entity subject to the insurance
8 laws and regulations of this state or subject to the jurisdiction of the insurance
9 commissioner that contracts or offers to contract or enters into an agreement
10 to provide, deliver, arrange for, pay for, or reimburse any of the costs of health
11 care services, including a sickness and accident insurance company, a health
12 maintenance organization, a preferred provider organization, or any similar
13 entity, or any other entity providing a plan of health insurance or health
14 benefits.

15 (7) "Physician" means a natural person who is the holder of an
16 allopathic (MD) degree or an osteopathic (DO) degree from a medical college
17 in good standing with the board who holds a license, permit, certification, or
18 registration issued by the board to engage in the practice of medicine in the
19 state of Louisiana.

20 (8) "Primary care" means routine health care services, including
21 screening, assessment, diagnosis, and treatment for the purpose of promotion
22 of health, and detection and management of disease or injury.

23 §1360.82. Prohibition on discrimination

24 Except as provided in R.S. 37:1360.85, no direct practice shall decline to
25 accept any person solely on account of race, religion, national origin, the
26 presence of any sensory, mental, or physical disability, education, or economic
27 status.

28 §1360.83. Direct fee

29 A. A direct practice shall charge a direct fee on a periodic basis. The
30 amount of the fee and the periodic basis upon which such fee shall be paid shall

1 be included in the provisions of the direct agreement. The fee shall represent the
2 total amount due for all primary care services specified in the direct agreement
3 and may be paid by the direct patient or on his behalf by others.

4 B. A direct practice shall maintain appropriate accounts and provide a
5 history of payments and services received upon a request of a direct patient.

6 C. If a direct patient chooses to pay more than one periodic direct fee in
7 advance, the funds shall be held in a trust account and paid to the direct
8 practice as earned at the beginning of each period. Any unearned direct fees
9 held in trust following receipt of termination of the direct agreement shall be
10 promptly refunded to the direct patient.

11 D. A direct fee schedule applying to an existing direct patient may not be
12 increased over the annual negotiated amount more frequently than annually.

13 A direct practice shall provide advance notice to existing patients of any change
14 within the fee schedule applying to those existing direct patients. A direct
15 practice shall provide notice of any change in the fee not less than sixty days
16 from the date of the change.

17 §1360.84. Prohibited and authorized practices

18 A. A direct practice shall not:

19 (1) Enter into a participating provider contract with any health
20 insurance issuer or with any health insurance issuer's contractor or
21 subcontractor to provide health care services through a direct agreement except
22 as set forth in Subsection B of this Section.

23 (2) Submit a claim for payment to any health insurance issuer or any
24 health insurance issuer's contractor or subcontractor for health care services
25 provided to direct patients as covered by their agreement.

26 (3) With respect to services provided through a direct agreement, be
27 identified by a health insurance issuer or any health insurance issuer's
28 contractor or subcontractor as a participant in the health insurance issuer's or
29 any health insurance issuer's contractor or subcontractor network for purposes
30 of determining network adequacy or being available for selection by an enrollee

1 under a health insurance issuer's benefit plan.

2 (4) Pay for health care services covered by a direct agreement rendered
3 to direct patients by providers other than the providers in the direct practice or
4 their employees, except as described in Subsection B of this Section.

5 B. A direct practice and provider may:

6 (1) Enter into a participating provider contract with a health insurance
7 issuer for purposes other than payment of claims for services provided to direct
8 patients through a direct agreement. Such physicians shall be subject to all
9 other provisions of the participating provider contract applicable to
10 participating providers, including but not limited to the right to:

11 (a) Make referrals to other participating providers.

12 (b) Admit the carrier's members to participating hospitals and other
13 health care facilities.

14 (c) Prescribe prescription drugs.

15 (d) Implement other customary provisions of the contract not dealing
16 with reimbursement of services.

17 (2) Pay for charges associated with:

18 (a) The provision of routine lab and imaging services.

19 (b) Dispensing, at no additional cost to the direct patient, of prescription
20 drugs prescribed by the direct provider in accordance with state law and
21 regulations promulgated by the board.

22 (3) Charge an additional fee to direct patients for supplies, medications,
23 and specific vaccines provided to direct patients that are specifically excluded
24 under the agreement, provided the direct practice notifies the direct patient of
25 the additional charge, prior to their administration or delivery.

26 §1360.85. Acceptance or discontinuation of patients; third-party payments

27 A. A direct practice shall not decline to accept new direct patients or
28 discontinue care to existing patients solely because of the patient's health status.

29 A direct practice may decline to accept a patient if the practice has reached its
30 maximum capacity, or if the patient's medical condition is such that the

1 provider is unable to provide the appropriate level and type of health care
2 services in the direct practice. As long as a direct practice provides a patient
3 notice and the opportunity to obtain care from another physician, a direct
4 practice may discontinue care for a direct patient if any one of the following
5 conditions is satisfied:

6 (1) The patient fails to pay the direct fee under the terms required by the
7 direct agreement.

8 (2) The patient has performed an act that constitutes fraud.

9 (3) The patient repeatedly fails to comply with the recommended
10 treatment plan.

11 (4) The patient is abusive and presents an emotional or physical danger
12 to the staff or other patients of the direct practice.

13 (5) The direct practice discontinues operation as a direct practice.

14 B. Subject to the restrictions established in this Part, a direct practice
15 may accept payment of direct fees directly or indirectly from third parties. A
16 direct practice may accept a direct fee paid by an employer on behalf of an
17 employee who is a direct patient. However, a direct practice shall not enter into
18 a contract with an employer relating to direct practice agreements between the
19 direct practice and employees of that employer other than to establish the
20 timing and method of the payment of the direct fee by the employer.

21 C. Subject to the restrictions established in this Part, a direct practice
22 may accept payment of direct fees directly or indirectly from the Louisiana
23 Medical Assistance Program or any entity contracting with the state of
24 Louisiana to provide managed care in the Louisiana Medical Assistance
25 Program, subject to any necessary approval from the Centers for Medicare and
26 Medicaid Services.

27 §1360.86. Direct practice not an insurer

28 A direct practice that complies with the provisions of this Part is not a
29 health insurance insurer and not subject to the provisions of nor the regulations
30 under Title 22 of the Louisiana Revised Statutes of 1950.

1 §1360.87. Conduct of business; prohibitions

2 A person shall not make, publish, or disseminate any false, deceptive, or
3 misleading representation or advertising in the conduct of the business of a
4 direct practice or relative to the business of a direct practice.

5 §1360.88. Misrepresenting the terms of a direct agreement

6 A person shall not make, issue, circulate, or cause to be made, issued, or
7 circulated, a misrepresentation of the terms of any direct agreement, the
8 benefits or advantages promised thereby, or use the name or title of any direct
9 agreement misrepresenting the nature thereof.

10 §1360.89. Direct agreement requirements; disclaimer

11 A.(1) A direct agreement shall include the following disclaimer:

12 "This agreement does not provide comprehensive health insurance
13 coverage. It provides only the health care services specifically described."

14 (2) A direct agreement may not be sold to a group and may not be
15 entered with a group of subscribers. A direct agreement shall be an agreement
16 between a direct practice and an individual direct patient or a family of direct
17 patients.

18 (3) Nothing shall prohibit the presentation of marketing materials to
19 groups of potential subscribers or their representatives.

20 B. A comprehensive disclosure statement shall be distributed to all direct
21 patients with their participation forms. The disclosure shall inform a direct
22 patient of his financial rights and responsibilities to the direct practice as
23 provided for in this Part, encourage a direct patient to obtain and maintain
24 insurance for services not provided by the direct practice, and state that the
25 direct practice will not bill a health insurance issuer for services covered under
26 the direct agreement. The disclosure statement shall include contact
27 information for the board.

28 §1360.90. Rules

29 The board may promulgate all rules and regulations that are necessary
30 and proper to effectuate the provisions of this Part.

1 §1360.91. Violations
2 Violations of this Part shall constitute unprofessional conduct and
3 subject violators to any and all sanctions which may be pursued by the board
4 pursuant to R.S. 37:1285.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____