The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 132
INTRODUCER:	Health Policy Committee and Senator Grimsley and others
SUBJECT:	Direct Primary Care
DATE:	February 16, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Fav/CS**
2.	Johnson	Knudson	BI	**Favorable**
3.	Pace	Hrdlicka	FP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 132 creates a new section of Florida Statutes related to the application of the Florida Insurance Code for direct primary care agreements. The bill provides that a direct primary care agreement is not insurance and is not subject to the Florida Insurance Code. The bill defines the terms, "direct primary care agreement," "primary care provider," and "primary care service," and specifies certain provisions that must be included in a direct primary care agreement.

II. Present Situation:

Direct Primary Care

Direct primary care (DPC) is a primary care medical practice model that eliminates third party payers from the primary care provider-patient relationship. Through a contractual agreement, a patient pays a monthly fee, usually between $50 and $100 per individual,[1] to the primary care provider for defined primary care services, such as:

- Office visits;

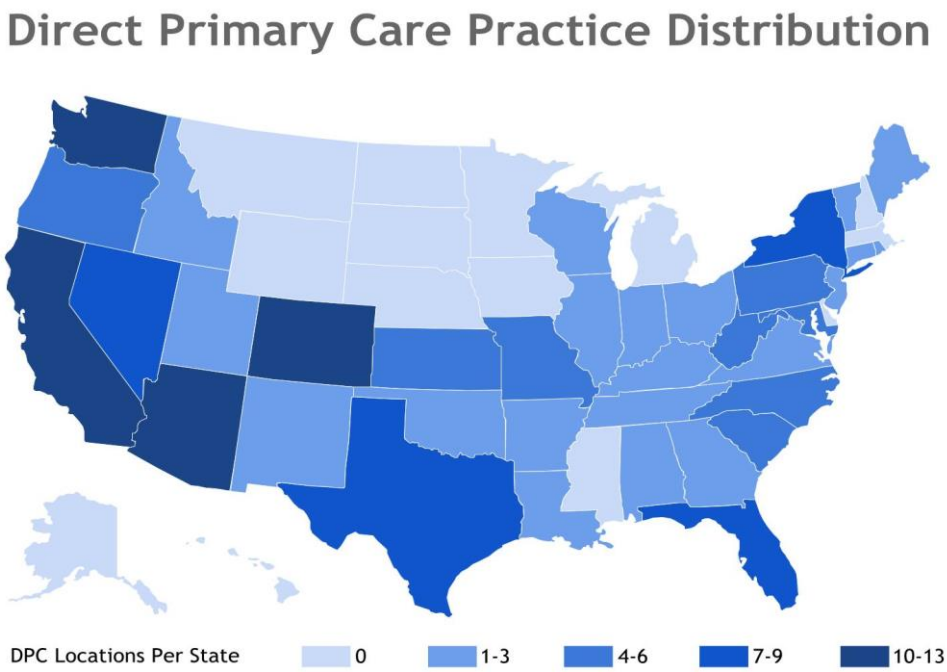
[1] Approximately two-thirds of DPC practices charge less than $135 per month. *See* Jen Wieczner, *Is Obamacare Driving Doctors to Refuse Insurance?*, Wall St. J. Marketwatch, (Nov. 12, 2013) *available at:* http://www.marketwatch.com/story/is-direct-primary-care-for-you-2013-11-12 (last visited Feb. 9, 2016). A recent study of 141 DCP practices found the average monthly fee to be $77.38. *See* Phillip M. Eskew and Kathleen Klink, *Direct Primary Care: Practice Distribution and Cost Across the Nation*, Journal of the Amer. Bd. of Family Med. (Nov.-Dec. 2015) Vol. 28, No. 6, p. 797, *available at:* http://www.jabfm.org/content/28/6/793.full.pdf (last visited Feb. 9, 2016).

- Annual physical examination;
- Routine laboratory tests;
- Vaccinations;
- Wound care;
- Splinting or casting of fractured or broken bones; or
- Other routine testing, e.g. echocardiogram and colon cancer screening.

After paying the fee, a patient can access all services under the agreement at no extra charge. Some DPC practices also include routine preventative services, like lab tests, mammograms, Pap screenings, and vaccinations. A primary care provider DPC model can be designed to address most health care issues, including women's health services, pediatric care, urgent care, wellness education, and chronic disease management.

In the DPC practice model, the primary care provider eliminates overhead costs associated with insurance filing claims, coding, refiling claims, write-offs, appealing denials, and employing billing staff. The cost and time savings can be reinvested in the practice, allowing more time with patients to address their primary care needs.[2]

The following chart illustrates the concentration of DPC practices in the United States:[3]



In 2014, the American Academy of Private Physicians (AAPP) estimated that approximately 5,500 physicians operate under some type of direct financial relationship with their patients,

[2] DPC practices claim to reduce overhead by more than 40% by eliminating administrative staff resources associated with third-party billing. *See* Eskew, s*upra* note 1, p. 794.
[3] Jay Keese, Executive Director, Direct Primary Care Coalition, *Direct Primary Care*, PowerPoint presentation before the House of Representatives Health Innovation Subcommittee (Feb. 17, 2015), slide 2, *available at:* http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2859&Session=2015&DocumentType=Meeting Packets&FileName=his 2-17-15.pdf (last visited Feb. 9, 2016).

outside of standard insurance coverage. According to the AAPP that number has increased around 25 percent per year since 2010.[4]

DPC and Health Care Reform

The Patient Protection and Affordable Care Act (PPACA)[5] addresses the DPC practice model as part of health care reform. A qualified health plan under the PPACA is permitted to offer coverage through a DPC medical home plan if it provides essential health benefits and meets all other criteria in the law.[6] Patients who are enrolled in a DPC medical home plan may be exempt from the individual mandate if they have coverage for other services, such as a wraparound catastrophic health policy to cover treatment for serious illnesses, like cancer, or severe injuries that require lengthy hospital stays and rehabilitation.[7] In Colorado and Washington, qualified health plans offer DPC medical home coverage on the state-based health insurance exchange.[8]

Currently, there are no state laws regulating direct primary care agreements in Florida.

III. Effect of Proposed Changes:

The bill creates s. 624.27, F.S., relating to the application of the Florida Insurance Code (code) to direct primary care agreements. The bill creates the following definitions:

- "Direct primary care agreement" is a contract between a primary care provider and a patient, the patient's legal representative, or an employer which must satisfy certain requirements within the bill and does not indemnify for services provided by a third party.
- "Primary care provider" is a licensed health care practitioner under ch. 458 (medical doctor or physician assistant), ch. 459 (osteopathic doctor or physician assistant), ch. 460 (chiropractic physician), or ch. 464, F.S., (nurses and advanced registered nurse practitioners), or a primary care group practice that provides medical services which are commonly provided without referral from another health care provider.
- "Primary care service" is the screening, assessment, diagnosis, and treatment of a patient for the purpose of promoting health or detecting and managing disease or injury within the competency and training of the primary care provider.

The bill provides that a direct primary care agreement is not insurance and entering into such an agreement is not the business of insurance. The bill exempts both the agreement and the activity of entering into a direct primary care agreement from the code. Through the exemption, the bill eliminates any authority of Office of Insurance Regulation to regulate a direct primary care agreement or the act of entering into such an agreement. The bill also exempts a primary care provider, or his or her agent, from certification or licensing requirements under the code to market, sell, or offer to sell a direct primary care agreement.

[4] David Twiddy, *Practice Transformation: Taking the Direct Primary Care Route*, Family Practice Management, No. 3, (May-June 2014), *available at:* http://www.aafp.org/fpm/2014/0500/p10.html (last visited Feb. 9, 2016).
[5] Pub. Law No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).
[6] 42 U.S.C. s. 18021(a)(3); 45 C.F.R. s. 156.245.
[7] *See* 42 U.S.C. ss. 18021(a)(3) and 18022.
[8] Keese, s*upra* note 2, slide 4.

The bill requires a direct primary care agreement to:

- Be in writing;
- Be signed by the primary care provider, or his or her agent, and the patient, or the patient's legal representative, or an employer;
- Allow either party to terminate the agreement by written notice followed by a waiting period as specified in the agreement;
- Describe the scope of services that are covered by the monthly fee;
- Specify the monthly fee and any fees for primary care services not covered by the monthly fee;
- Specify the duration of the agreement and any automatic renewal provisions;
- Provide for a refund to the patient of monthly fees paid in advance if the primary care provider stops offering primary care services for any reason;
- State that the agreement is not health insurance and the primary care provider will not file any claims against any health insurance or reimbursement plans the patient may have for any primary care services covered by the agreement; and
- State that the agreement does not qualify as minimum essential coverage to satisfy the individual shared responsibility provision of the federal Patient Protection and Affordable Care Act.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill removes regulatory uncertainty for health care providers by stating that the direct primary care agreement is not insurance and as a result not regulated by the Office of Insurance Regulation. Additional primary care providers may elect to pursue a direct primary care model and establish direct primary care practices which may increase access to affordable primary care services.

C. Government Sector Impact:

None.[9]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 624.27 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on February 1, 2016:
The committee substitute expands the definition of a primary care provider to include a chiropractic physician and conforms the description of the licensed persons to health care practitioners as opposed to health care providers.

B. Amendments:

None.

[9] The Revenue Estimating Conference determined that the impact from the bill is zero-negative indeterminate; the number of doctors under such arrangements nationwide is small. *See* Office of Economic and Demographic Research, *Revenue Estimating Conference*, HB 37/SB 132 (Dec. 4, 2015).