SB0685_FAV_MedChi_Direct Primary Care Agreements -
Uploaded by: Kauffman, Danna
Position: FAV

MedChi

The Maryland State Medical Society

1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0872
Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Clarence K. Lam

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
J. Steven Wise

DATE: March 3, 2021

RE: **SUPPORT** – Senate Bill 685 – *Insurance Law – Application to Direct Primary Care Agreements – Exclusion*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 685, which exempts a "direct primary care agreement" from insurance regulation and authorizes the Health Education and Advocacy Unit (HEAU) in the Division of Consumer Protection of the Office of the Attorney General to assist consumers in understanding direct primary care agreements.

A "direct primary care agreement" is an option to complement, not substitute insurance products. In other states that recognize these agreements, it is often used in combination with high deductible plans. Currently, these products are being used in Maryland but there is a lack of clarity in the law regarding their use. Direct primary care provides patients with greater flexibility to meet their health care needs. It is simply an option that allows patients and their healthcare providers to establish a closer professional relationship. As medical costs continue to increase, patients should have the option to customize their health care to best suit their individual needs. The addition of authorizing the HEAU to work with consumers is a positive addition to this bill.

For these reasons, MedChi respectfully requests that the Committee support Senate Bill 685.

For more information call:
Danna L. Kauffman
Pamela Metz Kasemeyer
J. Steven Wise
410-244-7000

DPCC Maryland Testimony SB 685.jpk.pdf
Uploaded by: Keese, James
Position: FAV

Testimony of Jay Keese
Executive Director
Direct Primary Care Coalition

SB 685 - Direct Primary Care Agreements
Maryland State Senate Finance Committee

March 3, 2020

Chairwoman Kelley, Vice Chair Feldman, and Members of the Finance Committee, thank you for the opportunity to testify in support of Senator Lam's SB 685, which clarifies that direct primary care (DPC) agreements are medical services, not health insurance.

Over 1200 DPC Practices nationwide— a dozen in Maryland—now offer great primary care paid for directly with a monthly fee by an individual, employer, or even a health plan. No copays or deductibles that keep many from going to the doctor today.

Never has this been more important than now as Maryland and the world faces the greatest health crisis in a millennium—the COVID pandemic. A Milliman study published last year for the Society of Actuaries showed that in the two years prior to COVID, virtually all direct primary care doctors (99%) were doing virtual consults via text/phone as a part of a value based primary care membership fee. The study showed the average fee was less than $74 per month (about the average price of a cell phone bill).

More and more, employers will pick up the cost for these plans because they improve care and reduce hospitalizations. Boeing offers DPC as does Johns Hopkins.

A Harvard study shows inpatient hospital admissions have been reduced by as much as 37%[1] in DPC arrangements.

[1] Harvard Business School - *Iora Claims Database, https://rctom.hbs.org/submission/iora-health-redefining-primary-care-medicine/*

Maxar, a Gaithersburg satellite company did a study that shows patients who choose a DPC option instead of the regular PPO, saved the company more than 20% off the total cost of a health benefit.

How? By treating or preventing conditions in a fixed-cost primary care setting, and virtually eliminating administrative expenses because there are never any claims filed for primary care.

Patients and doctors love it. Over 30 states have passed similar bills and regulations around the country, usually with bipartisan support and often unanimously.

Like many of these, SB 685 enacts no fewer than 10 important patient protections, not in law today:

- The bill requires any DPC agreement to conspicuously state that the agreement is <u>not health insurance</u>.

  Patients still need insurance for medical issues outside primary care.

- The provider may not deny a patient because of any health condition.

- It requires the DPC agreement to spell out all the services covered and is signed by both patient and provider, regardless of who pays for the agreement (e.g., employer, union trust).

- It requires the provider to be licensed under the Health Occupations Act

- And it prohibits the practice from double dipping—billing a third-party fee-for-service for things already covered within the scope of the agreement.

- If a practice follows the conditions laid out in the bill, the DPC practice is not regulated as insurance. If not, they will still be subject to the regulatory discretion of the Maryland Insurance Administration.

- Under the bill, The *Health Education and Advocacy Unit* of the Consumer Protection Division can assist consumers if they have questions about what is or is not written in a direct primary care agreement.

The bill harmonizes state law with the Affordable Care Act Sec. 1301 (a) (3), which recognizes DPC as a good health reform outside of insurance—and a part of the essential health benefits.

The fundamental value equation for DPC is that the fee pays for a long-standing personal relationship with a doc of your choice instead of fees paid for a visit to address specific conditions piecemeal in fee for service.

The doctor is accountable to the patient, has time to treat in the primary care setting, and less incentive to refer to more complex specialty care—which is all most docs have time to do in the confines of a 5-7-minute visit.

Thank you for your time, we ask that you support SB 685 and pass it as soon as possible.

SB685-Kravet-Support.pdf
Uploaded by: Kravet, Steven
Position: FAV

JOHNS HOPKINS
UNIVERSITY & MEDICINE
Government and Community Affairs

SB685
Support

TO: The Honorable Delores Kelley, Chair,
Senate Finance Committee

FROM: Dr. Steven Kravet
President, Johns Hopkins Community Physicians

DATE: March 10, 2021

Johns Hopkins supports **SB 685 Insurance Law - Application to Direct Primary Care Agreements - Exclusion**. SB 685 clarifies that Direct Primary Care Agreements are not insurance products and should not be subject to insurance regulation. This bill has been introduced in the past but this version has a new provision to provide consumer protections. Specifically, authorizing the Health Education and Advocacy Unit of the Office of the Attorney General to assist consumers in understanding direct primary care agreements.

Johns Hopkins currently operates 24 primary care sites in Maryland, providing a broad range of primary care services throughout the state. Johns Hopkins Community Physicians believes that Direct Primary Care is an important option for physicians who wish to remain committed to the practice of primary care. Johns Hopkins Community Physicians currently has a Direct Primary Care model in Columbia serving its Hopkins employees. The model has been an early success, with a good deal of evidence indicating a very high level of satisfaction for both patients and providers, an increase in patient access, and decrease in overall utilization of inappropriate, more expensive care. Evidence also exists on the positive impact of Direct Primary Care on quality, costs and enhanced patient satisfaction. A recent February 17th perspective published in the New England Journal of Medicine cited Direct Primary Care as a model upon which the future of primary care could be constructed.

Direct Primary Care provides for an innovative agreement that offers patients the full range of comprehensive primary care services—including acute and urgent care, regular checkups, preventive care, chronic disease management, and care coordination— in exchange for a flat, recurring membership fee that typically is billed to patients (or their employers) monthly. Direct Primary Care Agreements offer an affordable alternative to paying high co-pays for primary care until the deductibles are met.

Particularly during the COVID-19 Pandemic, where many struggled to re-engineer medicine, Direct Primary Care Agreements have proven to be incredibly valuable. Patients participating in these agreements have had complete and uninterrupted access to their care providers.

While Direct Primary Care Agreements are permissible today in Maryland, other states that are more advanced in their establishment have adopted legislation that clarifies that these agreements are "not insurance." SB 685 establishes a protection that would allow for the continuation of relationships that benefit both patients and primary care providers.

For the above reasons, Johns Hopkins urges a **favorable report on SB 685.**

47 State Circle, Suite 203, Annapolis, MD 21401 410-269-0057

LAM_FAV_SB0685.pdf
Uploaded by: Lam, Clarence
Position: FAV

CLARENCE K. LAM, M.D., M.P.H.
Legislative District 12
Baltimore and Howard Counties

Education, Health, and Environmental Affairs Committee

Executive Nominations Committee

Joint Committee on Ending Homelessness

Chair
Joint Audit and Evaluation Committe

Joint Committee on Fair Practices and State Personnel Oversight

Vice Chair
Baltimore County Senate Delegation

Chair
Howard County Senate Delegation

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Miller Senate Office Building
11 Bladen Street, Room 420
Annapolis, Maryland 21401
410-841-3653 · 301-858-3653
800-492-7122 *Ext.* 3653
Clarence.Lam@senate.state.md.us

Support SB 685
Application to Direct Primary Care Agreements – Exclusion

Senator Clarence Lam

Why SB 685 is Needed

- The use of primary care has declined across the United States, despite clear research showing that primary care improves patient outcomes.
- Research suggests this decline is due to the lower pay for primary care physicians (as opposed to specialists), high medical school debt, and primary care physician burnout associated with insurance-related paperwork and limited time with patients.
- Direct primary care (DPC) is an emerging model that is an alternative to fee-for-service arrangements. DPC uses a contract that exchanges a regular membership payment (typically $25 to $125 per month) for specified healthcare services.
- Covered services usually include same day/next day clinic visits, laboratory tests (including urinalysis, X-rays, and EKGs), and negotiated discounts for services from other physicians.

What SB 685 Does

- SB 685 creates a clear definition of a “direct primary care agreement.”
- SB 685 excludes DPC contracts that meet certain requirements from provisions of insurance laws to reduce overhead costs.
- SB 685 protects patients by requiring certain language in contracts (e.g. a notice that the DPC agreement is not insurance and does not meet insurance mandate requirements) and authorizing the Office of the Attorney General to help consumers understand these agreements.

Current Direct Primary Care Laws

- 22 states have passed legislation stating that DPC is not insurance.
- There are currently DPC practices in Maryland, and their numbers are expected to grow.

SB685_SWA_FGA.pdf
Uploaded by: Hessler, Therese
Position: FWA

Senate Bill 685 - An Act Concerning Insurance Law- Application to Direct Primary Care Agreements- Exclusion

SUPPORT W/AMENDMENTS

Finance Committee

Madame Chair and Members of the Committee,

I write today in support of SB685, but with one simple amendment that is drawn from states that have had direct primary care laws for years. I write on behalf of the Foundation for Government Accountability, a group of public policy experts committed to sharing proven solutions to help communities and states.

There are many benefits of direct health care arrangements such as patients and providers having a higher-quality relationship that enables better management of care, especially for those with special needs and chronic conditions. They can reduce avoidable health care spending over time, reduce wait times for patients, and reduce instances of surprise bills as costs are transparent upfront.

That is why we strongly suggest the committee and Maryland Senate move this bill forward, but not to limit these arrangements to just primary care.

States that have passed direct primary care laws in the past have started to update their laws to allow other kinds of providers and specialists to make such direct arrangements. Direct health care relationships are beneficial for a range of services from dentistry to primary care, mental health counseling, or physical therapy, as just a few examples.

Limiting direct health care arrangements to just primary care may be short-sighted, as it denies residents immediate access to innovative, high-quality care arrangements that deliver high-value, quality care for less. A simple amendment to remove the word ‘primary” in a few sections of the bill as currently drafted would open the door to these innovative care models.

Thank you.

OAG HEAU_INF_SB0685.pdf
Uploaded by: O'Connor, Patricia
Position: INFO

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Direct Email:
poconnor@oag.state.md.us

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Fax No.
(410) 576-6571

Writer's Direct Dial No.
(410) 576-6515

March 3, 2021

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: The Office of the Attorney General, Health Education and Advocacy Unit

Re: Senate Bill 685 (Insurance Law- Application to Direct Primary Care Agreements- Exclusion): Letter of Concern

The pandemic is causing financial crises for patients and their families in Maryland, and is straining the resources of state, county and local governments. Economic modeling regarding whether and when Maryland's economy may return to its pre-pandemic status, or at least improve, is contingent on variable factors that this legislature is not always able to control. The HEAU believes, however, that the legislature can control unjustifiable risks to maintaining the affordable, accessible health care that has been increasingly available in Maryland by choosing not to create new risks in the way this bill threatens to do, now and in the future. On behalf of consumers, we are seriously concerned about the risks of financial and physical harm to patients if the Direct Primary Care Agreements (DPCAs) contemplated under Senate Bill 685 are allowed in Maryland.

We submit these basic protections are required, at a minimum, to avoid creating unjustifiable risks of consumer harm:

1) **Protect consumers in the individual market-** The period of the pandemic and its aftermath is an especially bad time for patients to be placed at risk from less expensive, poorly regulated products that look like but are not health insurance subject to federal and state law protections against nonperformance, discrimination, insolvency and other problems that historically have occurred with unregulated health insurance plans. We believe patients would be best

served now and in the future by strengthening the supports for the individual market instead of confusing them with cheaper products that offer minimal coverage at increased risk of nonperformance and insolvency.

2) **Comprehensive regulatory oversight**- Given state budget constraints for the foreseeable future, patients experiencing problems with DPCAs are at risk for falling between regulatory cracks. There need to be clear, explicit responsibilities defined for the entity or entities responsible for regulatory and enforcement authority over the DPCA agreements and additional financial resources allocated to undertake those efforts. It appears, as drafted, that the Maryland Insurance Administration would have concurrent regulatory and enforcement authority with the respective health occupation boards regarding licensed physicians and other providers who fail to perform under or wrongfully terminate DPCAs. For instance, the bill does not expressly address patient abandonment concerns arising out of the physician's right to terminate the DPCA.

   The HEAU may attempt to mediate DPCA-related billing disputes like other disputes we currently mediate, but without waiving our opposition to the bill, we respectfully submit that page 2, line 21 of the bill should be amended and cover HEAU's requests for information from health care providers including primary care providers. Otherwise HEAU's authority to receive information from healthcare providers would appear to be limited to DPCA providers.

3) **Antidiscrimination protections**- Though the healthcare antidiscrimination protections enacted last session clearly apply to DPCAs and cannot be waived as a matter of contract, this should be stated expressly. In addition, the updated antidiscrimination protections added last session to the Insurance Article should expressly apply to DPCAs. We are concerned that the very consumers who will be drawn to the promise of DPCAs, i.e., potentially unlimited access to a primary care provider for fees that cost less than their out-of- pocket maximum under their health insurance, are not a match for the DPCA business model and would be declined as patients, or if accepted, terminated unilaterally.

4) **Rate setting protections**- The MIA is experienced in actuarial evaluations of capitation rates charged by HMOs and in insurance rates generally. We believe there should be some verification by the MIA that the fees being charged in exchange for the services promised by DPCAs have some actuarial validity in terms of market value and deliverability without risk of insolvency. Alternatively, bonds should be required in appropriate amounts (health clubs in Maryland that collect advance fees have bonding requirements). There also should be specific reimbursement requirements when patients are entitled to the return of some or all of their prepaid fees. At a minimum, fees should be required to be reasonable.

5) **Transparency about services and costs compared to health insurance coverage**- The bill requires the Direct Primary Care Agreement to describe the direct primary care services to be provided in exchange for the payment of a periodic fee but does not require an itemization of the fees for those services. At a minimum, these fees must be itemized so that consumers will be able to calculate the amount of unearned funds that must be returned to them on termination of the agreement. It also requires a description of "any ongoing care" for which additional fees will be charged and the fees charged for those services. While we object to additional fees, any allowed fees should be itemized to enable consumers to make fully informed decisions about the costs of services provided under DPCA's vs. traditional insurance plans. Moreover, any comparison of DPCA fees to traditional market prices should not be misleading. The information should be provided in a way that enables patients to determine whether their costs under the DPCA will be less than, the same as, or more than their out-of-pocket costs for the same services under their health insurance. For example, non-grandfathered commercial and self-funded health plans must cover annual preventive exams provided by in-network providers with no out-of-pocket costs; that fact should be acknowledged by DPCAs, instead of suggesting patients must pay those costs out-of-pocket. *See for example,* https://evolvemedicalclinics.com/wp-content/uploads/Evolve-DTC-Membership-Contract.pdf (showing $353 national market price for annual physical exam and $50 for flu shots).

6) **Marketing restrictions**- DPCAs should not be sold by individuals licensed under the Insurance Article to sell health insurance products unless DPCAs are made subject to the same regulatory processes as health insurance products. The current restrictions on physician advertising should be evaluated and strengthened to reflect the risks of DPCAs, and other titles in the Health Occupations Article may need to be added or strengthened, also.

We are fundamentally concerned about the fiduciary nature of the physician/patient relationship and the imbalance of power in the relationship, and the lack of patient protections in the bill that might mitigate HEAU's concerns. Regulations enacted by the MIA and the Board of Physicians in consultation with the Consumer Protection Division would be essential in establishing standards and remedial processes to protect consumers from unethical or unfair business practices by DPCAs.

Thank you for the opportunity to provide information to the Committee.

cc: Sponsor