

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017

A Bill

HOUSE BILL 2240

4
5 By: Representative Gonzales

For An Act To Be Entitled

6
7
8 AN ACT TO EXEMPT DIRECT PRIMARY CARE AGREEMENTS FROM
9 INSURANCE REGULATION; AND FOR OTHER PURPOSES.

Subtitle

10
11
12 TO EXEMPT DIRECT PRIMARY CARE AGREEMENTS
13 FROM INSURANCE REGULATION.
14

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code § 23-60-104 is amended to read as follows:

20 23-60-104. Exceptions – Burial associations – Health care sharing
21 ministries – ~~Concierge service arrangements~~ Direct primary care agreements –
22 Definitions.

23 (a) The Arkansas Insurance Code and rules promulgated by the Insurance
24 Commissioner under the Arkansas Insurance Code do not apply to a:

25 (1) Burial association governed by §§ 23-78-101 – 23-78-119 and
26 23-78-121 – 23-78-125;

27 (2) ~~Concierge service arrangement~~ Direct primary care agreement;
28 or

29 (3) Health care sharing ministry.

30 (b) As used in this section:

31 (1)(A) “~~Concierge service arrangement~~ Direct primary care
32 agreement” means a ~~contractual~~ written agreement that:

33 (i) Is between a licensed healthcare provider and an
34 individual a patient or the patient’s legal representative;

35 (ii)(a) Allows either party to terminate the
36 agreement in writing, without penalty or payment of a termination fee, at any



1 time or after notice as specified in the agreement.

2 (b) The notice of termination described in
 3 subdivision (b)(1)(A)(ii)(a) of this section shall not exceed sixty (60)
 4 days;

5 (iii) to provide Describes select medical the
 6 healthcare services to be provided as specified under a medical arrangement
 7 in exchange for payment of an established a periodic fee;

8 (iv) Specifies the periodic fee required and any
 9 additional fees that may be charged;

10 (v) May allow the periodic fee and any additional
 11 fees to be paid by a third party;

12 (vi) Prohibits the healthcare provider from charging
 13 or receiving additional compensation for healthcare services included in the
 14 periodic fee; and

15 (vii) Conspicuously and prominently states that the
 16 agreement is not health insurance and does not meet any individual health
 17 insurance mandate that may be required by federal law.

18 (B) A ~~concierge service arrangement~~ direct primary care
 19 agreement shall provide a written disclaimer on or accompanying an
 20 application distributed by or on behalf of an entity offering a ~~concierge~~
 21 ~~service arrangement~~ direct primary care agreement that reads, in substance:
 22 "Notice: A ~~concierge service arrangement~~ direct primary care agreement is not
 23 an insurance policy, and the select medical services as specified under a
 24 ~~concierge service arrangement~~ direct primary care agreement may not
 25 constitute the minimum essential health benefits under federal healthcare
 26 laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152,
 27 and any amendments to, or regulations or guidance issued under, those
 28 statutes existing on ~~January 1, 2015~~ January 1, 2017. Medical services
 29 provided under a ~~concierge service arrangement~~ direct primary care agreement
 30 may not be covered by or coordinated with your health insurance and you may
 31 be responsible for any payment for medical services not covered by health
 32 insurance under your insurer's statement of benefits policy."; ~~and~~

33 (C) "Direct primary care agreement" does not mean a health
 34 benefit plan or a health maintenance organization as defined in § 23-76-102;
 35 and

36 (2) "Health care sharing ministry" means a faith-based,

1 nonprofit organization that:

2 (A) Is tax-exempt under the Internal Revenue Code of 1986;

3 (B) Limits participation to those who are of a similar
4 faith;

5 (C) Facilitates an arrangement to match participants who
6 have financial or medical needs to participants with the present ability to
7 assist those with financial or medical needs according to criteria
8 established by the health care sharing ministry;

9 (D) Provides for the financial or medical needs of a
10 participant through contributions from one (1) participant to another;

11 (E) Establishes contribution amounts for participants with
12 no guarantee of return, assumption of risk, or promise to pay qualified
13 medical needs of the participant or of the medical provider performing the
14 service or services for the participant;

15 (F) Provides a written monthly statement to its
16 participants that lists:

17 (i) The total dollar amount of qualified needs
18 submitted to the health care sharing ministry; and

19 (ii) The amount of contribution established for its
20 participants;

21 (G) Provides a written disclaimer on or accompanying an
22 application and guideline material distributed by or on behalf of the health
23 care sharing ministry that reads, in substance:

24 "Notice: The organization facilitating the sharing of medical expenses is not
25 an insurance company and neither its guidelines nor plan of operation is an
26 insurance policy. If anyone chooses to assist you with your medical bills, it
27 will be totally voluntary because participants are not compelled by law to
28 contribute toward your medical bills. Participation in the organization or a
29 subscription to any of its documents should never be considered to be
30 insurance. Regardless of whether you receive a payment for medical expenses
31 or if this organization continues to operate, you are always personally
32 responsible for the payment of your own medical bills."; and

33 (H) Transfers or distributes contribution amounts from one
34 (1) participant to match the qualified medical needs of another participant
35 to whom neither the organization nor the sending participant has an
36 obligation or commitment to pay for any qualified medical needs with its own

1 funds.

2

3 SECTION 2. Arkansas Code § 23-76-103(c)(2), concerning applicability
4 of laws concerning hospital and medical service corporations, is amended to
5 read as follows:

6 (2) ~~Concierge service arrangement~~ Direct primary care agreement
7 as defined in § 23-60-104(b).

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36