

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 7047 PCB HIS 15-02 Bundled Health Care Services

SPONSOR(S): Health & Human Services Committee; Insurance & Banking Subcommittee; Health Innovation Subcommittee, Costello

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|----------|---------------------------------------|
| Orig. Comm.: Health Innovation Subcommittee | 11 Y, 2 N | Poche | Poche |
| 1) Insurance & Banking Subcommittee | 13 Y, 0 N, As CS | Peterson | Cooper |
| 2) Finance & Tax Committee | 17 Y, 0 N | Pewitt | Langston |
| 3) Health & Human Services Committee | 12 Y, 1 N, As CS | Poche | Calamas |

SUMMARY ANALYSIS

Medical tourism is travel for the purpose of receiving medical treatment. Traditionally, the term referred to international travel, but interstate medical tourism has increased and is referred to as domestic medical tourism. Medical tourism can include sophisticated treatments such as cardiac surgery and orthopedics, as well as elective or routine procedures for dental care or cosmetic surgeries.

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, to the primary care provider for defined primary care services. After paying the fee, a patient can utilize all services under the agreement at no extra charge. Some DPC practices also include routine preventative services, women's health services, pediatric care, urgent care, wellness education, and chronic disease management.

CS/CS/HB 7047 requires Enterprise Florida and the Division of Tourism Marketing (Division), within its 4-year marketing plan, to advance the state as a destination for quality bundled health care services by:

- Promoting, both nationally and internationally, the qualifications, scope of services, and expertise of health care providers in the state;
- Promoting medical-related conferences, training, and other opportunities to draw health care providers to the state; and
- Showcasing qualified providers offering bundled packages of health care and support services.

To select providers to be showcased, the Division must solicit proposals from hospitals and other providers that detail available services, provider qualifications, and arrangements for other support services, such as food and lodging, which may be provided to visiting patients and their families.

The bill also provides that a direct primary care agreement (agreement) and the act of entering into such an agreement are not insurance and not subject to regulation under the Florida Insurance Code (Code). The bill also exempts a primary care provider, which includes a primary care group practice, or his or her agent, from any certification or licensure requirements in the Code for marketing, selling, or offering to sell an agreement, and sets requirements for such agreements.

The bill has an indeterminate impact on state General Revenue. See Fiscal Comments.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Tourism

Medical tourism is a term used to describe when health care consumers travel to receive medical treatment. Traditionally, the term meant to travel internationally, but consumer travel across state lines in the U.S. has increased and is referred to as domestic medical tourism. Medical tourism can include sophisticated treatments such as cardiac and orthopedic surgery, as well as elective or routine procedures for dental care or cosmetic surgeries. Medical tourism occurs for a variety of reasons, including the globalization of health care services and increases in geriatric populations in the United States and Europe. Consumer preference in health care depends on factors that a consumer normally applies when purchasing a good, including cost, income, substitutions, or complimentary goods. Due to the size and scope of the health care industry, there is no one “trend” in medical tourism.

Medical tourism is often presented as a way to reduce costs for medical treatment. Cost savings is an incentive for some employers to adopt domestic medical tourism practices within the U.S. Changes to health care law in the United States have brought medical treatment cost disparity into the spotlight. In May 2013, NPR reported on data released by the Federal Department of Health and Human Services on hospital charges for treatment of Medicare patients.¹ NPR reported that there were large differences in the costs of the 100 most common treatments that require hospitalization. Differences occurred across states and hospitals miles from each other. The differences in cost ranged in multiples of 5 to 40. Similar reports found supporting examples including a joint replacement procedure that cost \$297,000 at Centinela Hospital and \$84,000 at St. John’s Health Center, two California hospitals about 12 miles apart.² The reports suggest similar levels of disparity in costs to private insurers and uninsured patients.

VISIT Florida

VISIT Florida is the state’s public/private partnership for tourism marketing. Enterprise Florida, Inc., contracts with VISIT Florida to promote tourism in the state and supports its activities through the Division of Tourism Marketing (Division). VISIT Florida is required to adopt a 4-year tourism marketing plan which, at a minimum, discusses the following:

- Continuing overall tourism growth;
- Expanding efforts to new or under-represented tourist markets;
- Maintaining traditional and loyal tourist markets;
- Coordinating efforts with local government and private sector partners to create a four-season advertising campaign for the state and its regions;
- Developing innovative techniques or promotions for repeat visits by targeted tourist groups;
- Considering innovative sources of state funding for tourism marketing;
- Promoting nature-based and heritage-based tourism; and
- Developing a component to address emergency responses to disasters from a marketing standpoint.³

Medical tourism is not required to be included in the current 4-year marketing plan developed by the Division.

¹ NPR, *Government Data Reveals Wild Disparity in Health Care Costs* (May 8, 2013), available at: <http://www.npr.org/templates/story/story.php?storyId=182337915> (last visited April 10, 2015).

² Christian Science Monitor, *New report reveals stunning disparities in health-care costs* (May 8, 2013), available at: <http://www.csmonitor.com/Business/2013/0508/New-report-reveals-stunning-disparities-in-health-care-costs> (last visited April 10, 2015).

³ Section 288.923(4), F.S.

For FY 2014-2015, VISIT Florida was appropriated \$74.0 million.⁴ Of that amount, \$5.0 million was allocated to promoting Florida as a destination for medical tourists: \$3.5 million was dedicated to developing a medical tourism marketing plan and \$1.5 million was dedicated for matching grants.⁵ In November, VISIT Florida announced the establishment of a new grant program as part of Discover Florida Health, the state's official medical tourism program, to assist Florida businesses in promoting themselves as a medical tourism destination of choice.⁶ In January 2015, VISIT Florida awarded \$3.1 million in grants to 25 entities- 9 for medical tourism destination promotion and 16 for medical meetings and training promotion.⁷

According to VISIT Florida, 97.3 million tourists visited the state in 2014 and spent \$82 billion, which generated nearly \$5.0 billion in tax revenue and employed more than 1.1 million Floridians.⁸

Florida Office of Insurance Regulation

The Florida Office of Insurance Regulation (OIR) regulates the business of insurance in the state, in accordance with the Florida Insurance Code (Code). The specific chapters under the Code are:

- Chapter 624, F.S. – Insurance Code: Administration and General Provisions
- Chapter 625, F.S. – Accounting, Investments, and Deposits by Insurers
- Chapter 626, F.S. – Insurance Field Representatives and Operations
- Chapter 627, F.S. – Insurance Rates and Contracts
- Chapter 628, F.S. – Stock and Mutual Insurers; Holding Companies
- Chapter 629, F.S. – Reciprocal Insurers
- Chapter 630, F.S. – Alien Insurers: Trusteed Assets; Domestication
- Chapter 631, F.S. – Insurer Insolvency; Guaranty of Payment
- Chapter 632, F.S. – Fraternal Benefit Societies
- Chapter 634, F.S. – Warranty Associations
- Chapter 635, F.S. – Mortgage Guaranty Insurance
- Chapter 636, F.S. – Prepaid Limited Health Service Organizations and Discount Medical Plan Organizations
- Chapter 641, F.S. – Health Care Service Programs
- Chapter 648, F.S. – Bail Bond Agents
- Chapter 651, F.S. – Continuing Care Contracts

The Life and Health Unit (Unit) of OIR provides financial oversight of health insurers, health maintenance organizations, and other regulated entities providing health care coverage. The Unit also reviews and approves some health care coverage products offered in the state. The following chart shows the type and number of each entity in the state:⁹

⁴ S. 6, ch. 2014-51, line 2261, Laws of Fla.

⁵ Id.

⁶ VISIT Florida, Sunshine Matters blog, *VISIT Florida Awards \$3.1 Million in Medical Tourism Grants*, available at www.visitfloridablog.org/?p=11862 (last visited April 10, 2015).

⁷ Id.; a list of the entities receiving grant awards can be viewed at www.visitflorida.org/media/9016/2014_2015MedicalTourismGrantAwards.pdf (last viewed April 10, 2015).

⁸ VISIT Florida, *Research*, available at: <http://www.visitfloridamediablog.com/home/florida-facts/research/> (last visited April 10, 2015).

⁹ Rich Robleto, FLORIDA OFFICE OF INSURANCE REGULATION, *Health Insurance Regulatory Responsibilities of the Office of Insurance Regulation*, PowerPoint presentation before the House Health Innovation Subcommittee, January 21, 2015, slide 7 (using data compiled on March 21, 2014 from NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS Insurance, *Department Resources Report for CY 2013*)(on file with the House Health and Human Services Committee).

| Authority Category | Authorities |
|---|-------------|
| Health Insurers | 448 |
| Third Party Administrators | 310 |
| Continuing Care Retirement Communities | 61 |
| Discount Medical Plan Organizations | 40 |
| Health Maintenance Organizations | 38 |
| Fraternal Benefit Societies | 36 |
| Prepaid Limited Health Service Organizations/Prepaid Health Clinics | 28 |

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,¹⁰ to the primary care provider for defined primary care services. These primary care services may include:

- Office visits;
- Annual physical examination;
- Routine laboratory tests;
- Vaccinations;
- Wound care;¹¹
- Splinting or casting of fractured or broken bones;
- Other routine testing, e.g. echocardiogram and colon cancer screening; or
- Other medically necessary primary care procedures.

After paying the fee, a patient can utilize 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 the large majority of 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 practice overhead costs associated with 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.

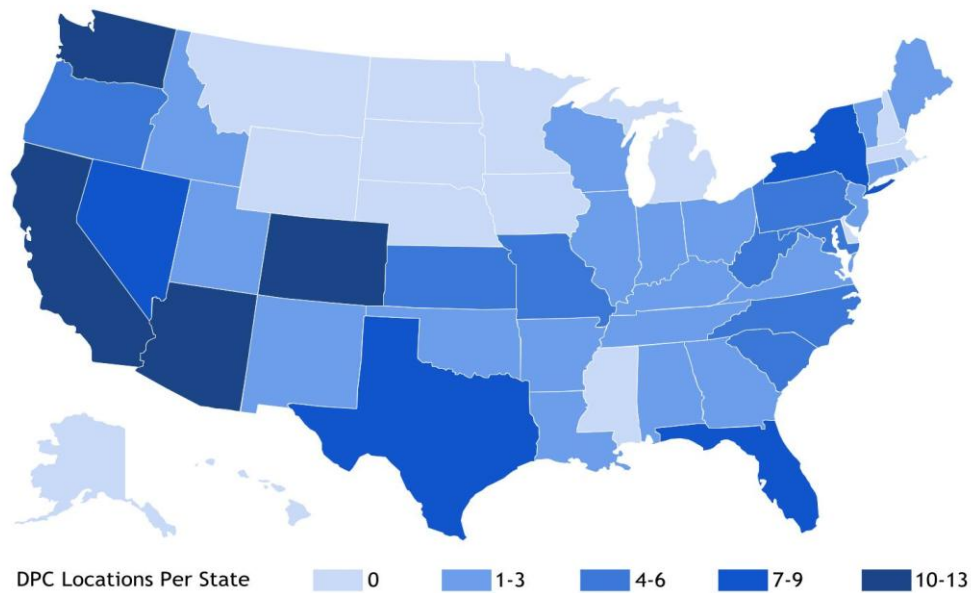
The following chart illustrates the concentration of DPC practices in the United States:¹²

¹⁰ Approximately two thirds of DPC practices charge less than \$135 per month. Jen Wiczner, *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 April 10, 2015).

¹¹ E.g., stitches and sterile dressings.

¹² Jay Keese, DIRECT PRIMARY CARE COALITION, *Direct Primary Care*, PowerPoint presentation before the House Health Innovation Subcommittee, slide 4, February 17, 2015 (on file with the House Health and Human Services Committee).

Direct Primary Care Practice Distribution



There are an estimated 4,400 direct primary care physicians nationwide, up from 756 in 2010.¹³

DPC and Health Care Reform

The Patient Protection and Affordable Care Act (PPACA)¹⁴ addresses the DPC practice model as part of health care reform. A qualified health plan under 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.¹⁵ Patients who are enrolled in a DPC medical home plan are 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.¹⁶ In Colorado and Washington, qualified health plans are offering DPC medical home coverage on each state-based health insurance exchange.¹⁷

Effect of Proposed Changes

CS/CS/HB 7047 requires Enterprise Florida and the Division of Tourism Marketing (Division), within its 4-year marketing plan, to advance the state as a destination for quality bundled health care services by:

- Promoting, both nationally and internationally, the qualifications, scope of services, and expertise of health care providers in the state;
- Promoting medical-related conferences, training, and other opportunities to draw health care providers to the state; and
- Showcasing qualified providers offering bundled packages of health care and support services.

To select providers to be showcased, the Division must solicit proposals from hospitals and other providers that detail available services, provider qualifications, and arrangements for other support services, such as food and lodging, which may be provided to visiting patients and their families.

To be qualified for Division showcasing, the bill requires a health care provider to:

¹³ Daniel McCorry, *Direct Primary Care: An Innovative Alternative to Conventional Health Insurance*, THE HERITAGE FOUNDATION BACKGROUNDER, No. 2939 (Aug. 6, 2014), available at <http://report.heritage.org/bg2939> (last viewed April 10, 2015).

¹⁴ Pub. L. No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).

¹⁵ 42 U.S.C. §1802 (a)(3); 45 C.F.R. §156.245

¹⁶ 42 U.S.C. §18021(a)(3)

¹⁷ Robleto, *Supra* note 5, slide 2.

- Have a full, active, and unencumbered Florida license;
- Have a current accreditation from a nationally recognized accrediting body;
- Be a recipient of the Cancer Center of Excellence Award as provided in s. 381.925;
- Have a current national or international recognition in another specialty area, if that recognition is given through a specific qualifying process; or
- Meet other criteria as determined by Florida Tourism Industry Marketing Corp., with AHCA and DOH.

The bill also provides that a direct primary care agreement is not insurance and entering into such an agreement is not the business of insurance and exempts both the agreement and the activity from the Code. Through the exemption, the bill eliminates any authority of OIR to regulate a direct primary care agreement or 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.

The bill requires a direct primary care agreement to:

- Be in writing;
- Be signed by the primary care provider, which includes a primary care practice group, and the patient, the patient's legal representative, or an employer;
- Allow either party to terminate the agreement by written notice followed by a waiting period;
- Describe the scope of services that are covered by the monthly fee;
- Specify the monthly fee and any fees for services not covered under the agreement;
- 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; and
- State that the agreement is not health insurance.

The bill provides an effective date of July 1, 2015.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.001, F.S., relating to Economic Development Programs Evaluation.

Section 2: Amends s. 299.901, F.S., relating to Enterprise Florida, Inc.

Section 3: Amends s. 288.923, F.S., relating to Division of Tourism Marketing; definitions; responsibilities.

Section 4: Creating s. 288.924, F.S., relating to medical tourism marketing plan for bundled health care services.

Section 5: Creates s. 624.27, F.S., relating to application of code as to direct primary care agreements.

Section 6: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has a negative indeterminate impact on state General Revenue.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could result in an increase in medical tourism in the state, increasing tourism dollars spent and spending on health care.

The bill removes any regulatory uncertainty as to the status of a direct primary care agreement as insurance. Primary care providers may choose to invest in establishing direct primary care practices throughout the state to provide primary care services, which would increase access to such services.

D. FISCAL COMMENTS:

On March 17, 2015, the Revenue Estimating Conference (REC) considered the impact of the bill and concluded that it has an indeterminate negative fiscal impact on General Revenue in the form of reduced insurance premium tax revenue. The REC reasoned that individuals who currently have health insurance policies, which are subject to the insurance premium tax, may drop those policies and enter into a DPC agreement, which is not insurance and not subject to the insurance premium tax. However, individuals, regardless of whether they are currently insured, may enter into DPC agreements and also purchase a high deductible health plan, which is subject to the insurance premium tax, for catastrophic health coverage to satisfy the individual health insurance mandate in PPACA. The bill, in that circumstance, could have a positive fiscal impact on insurance premium tax revenue. As a result, the bill appears to have an indeterminate fiscal impact on state government.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2015, the Insurance & Banking Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment expanded the allowable parties to a DPC agreement to include a primary care group practice or employer.

On April 9, 2015, the Health & Human Services Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment made the following changes:

- Required Enterprise Florida and the Division of Tourism Marketing to market the state of Florida as a health care destination and promote quality bundled health care services in the state;
- Required the Division of Tourism Marketing (Division), within its 4-year marketing plan, to advance the state as a destination for quality bundled health care services by:
 - Promoting, both nationally and internationally, the qualifications, scope of services, and expertise of health care providers in the state;
 - Promoting medical-related conferences, training, and other opportunities to draw health care providers to the state; and
 - Showcasing qualified providers offering bundled packages of health care and support services;
- Required the Division to solicit proposals from hospitals and other providers that detail available services, provider qualifications, and arrangements for other support services, such as food and lodging, which may be provided to visiting patients and their families;
- Made single health care providers eligible to be showcased by the Division;
- To be qualified for showcasing, required a health care provider to:
 - Have a full, active, and unencumbered Florida license;
 - Have a current accreditation from a nationally recognized accrediting body;
 - Be a recipient of the Cancer Center of Excellence Award as provided in s. 381.925;
 - Have a current national or international recognition in another specialty area, if that recognition is given through a specific qualifying process; or
 - Meet other criteria as determined by Florida Tourism Industry Marketing Corp., with AHCA and DOH; and
- Included a primary care group practice in the definition of "primary care provider."

The analysis is drafted to the committee substitute as passed by the Health & Human Services Committee.