

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1097

AN ACT

To repeal section 376.1800, RSMo, and to enact in lieu thereof one new section relating to retainer agreements for the provision of health care services.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 376.1800, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1800, to read as follows:

376.1800. 1. As used in this section, the following terms shall mean:

(1) "Medical retainer agreement", a contract between a [physician] provider and an individual patient or such individual patient's legal representative in which the [physician] provider agrees to provide certain health care services described in the agreement to the individual patient for an agreed-upon fee and period of time;

(2) ["Physician"] "Provider", a chiropractor licensed under chapter 331, a dentist licensed under chapter 332, or a physician licensed under chapter 334. [Physician] Provider includes an individual [physician] provider or a group of [physicians] providers.

2. A medical retainer agreement is not insurance and is not subject to this chapter. Entering into a medical retainer agreement is not the business of insurance and is not subject to this chapter.

3. A [physician] provider or agent of a [physician] provider is not required to obtain a certificate of authority or license under this section to market, sell, or offer to sell a medical retainer agreement.

4. To be considered a medical retainer agreement for the purposes of this section, the agreement shall meet all of the following requirements:

- (1) Be in writing;
- (2) Be signed by the [physician] provider or agent of the [physician] provider and the individual patient or such individual patient's legal representative;
- (3) Allow either party to terminate the agreement on written notice to the other party;
- (4) Describe the specific health care services that are included in the agreement;
- (5) Specify the fee for the agreement;
- (6) Specify the period of time under the agreement; and
- (7) Prominently state in writing that the agreement is not health insurance.

5. (1) For any patient who enters into a medical retainer agreement under this section and who has established a health savings account (HSA) in compliance with 26 U.S.C. Section 223, or who has a flexible spending arrangement (FSA) or health reimbursement arrangement (HRA), fees under the patient's medical retainer agreement may be paid from such health savings account or reimbursed through such flexible spending arrangement or health reimbursement arrangement, subject to any federal or state laws regarding qualified expenditures from a health savings account, or reimbursement through a flexible spending arrangement or a health reimbursement arrangement.

(2) The employer of any patient described in subdivision (1) of this subsection may:

(a) Make contributions to such patient's health savings account, flexible spending arrangement, or health reimbursement arrangement to cover all or any portion of the agreed-upon fees under the patient's medical retainer

agreement, subject to any federal or state restrictions on contributions made by an employer to a health savings account, or reimbursement through a flexible spending arrangement, or health reimbursement arrangement; or

(b) Pay the agreed-upon fees directly to the [physician] provider under the medical retainer agreement.

6. Nothing in this section shall be construed as prohibiting, limiting, or otherwise restricting a [physician] provider in a collaborative practice arrangement from entering into a medical retainer agreement under this section.