

SENATE BILL NO. 1097

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

5410S.01H

ADRIANE D. CROUSE, Secretary

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.

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

Section A. Section 376.1800, RSMo, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 376.1800, to read as follows:

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

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

9 (2) ["Physician"] "**Provider**", a physician licensed
10 under chapter 334, **or a dentist licensed under chapter 332.**
11 [Physician] **Provider** includes an individual [physician]
12 **provider** or a group of [physicians] **providers.**

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

17 3. A [physician] **provider** or agent of a [physician]
18 **provider** is not required to obtain a certificate of

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 authority or license under this section to market, sell, or
20 offer to sell a medical retainer agreement.

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

24 (1) Be in writing;

25 (2) Be signed by the **[physician] provider** or agent of
26 the **[physician] provider** and the individual patient or such
27 individual patient's legal representative;

28 (3) Allow either party to terminate the agreement on
29 written notice to the other party;

30 (4) Describe the specific health care services that
31 are included in the agreement;

32 (5) Specify the fee for the agreement;

33 (6) Specify the period of time under the agreement; and

34 (7) Prominently state in writing that the agreement is
35 not health insurance.

36 5. (1) For any patient who enters into a medical
37 retainer agreement under this section and who has
38 established a health savings account (HSA) in compliance
39 with 26 U.S.C. Section 223, or who has a flexible spending
40 arrangement (FSA) or health reimbursement arrangement (HRA),
41 fees under the patient's medical retainer agreement may be
42 paid from such health savings account or reimbursed through
43 such flexible spending arrangement or health reimbursement
44 arrangement, subject to any federal or state laws regarding
45 qualified expenditures from a health savings account, or
46 reimbursement through a flexible spending arrangement or a
47 health reimbursement arrangement.

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

50 (a) Make contributions to such patient's health
51 savings account, flexible spending arrangement, or health
52 reimbursement arrangement to cover all or any portion of the
53 agreed-upon fees under the patient's medical retainer
54 agreement, subject to any federal or state restrictions on
55 contributions made by an employer to a health savings
56 account, or reimbursement through a flexible spending
57 arrangement, or health reimbursement arrangement; or

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

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

✓