



## 2021 South Dakota Legislature

# House Bill 1131

Introduced by: **Representative St. John**

1 **An Act to authorize primary care agreements.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **34-54-1. Definitions.**

5 Terms used in this Act mean:

6 (1) "Primary care provider," an individual or other legal entity that is licensed,  
 7 registered, or otherwise authorized to provide primary care services in the state,  
 8 including an individual or other legal entity whose practice is professionally  
 9 associated with the individual or other legal entity;

10 (2) "Direct primary care agreement," a contract between a primary care provider and  
 11 an individual patient or his or her legal representative in which the health care  
 12 provider agrees to provide primary care services to the individual patient for an  
 13 agreed-upon fee and period of time;

14 (3) "Direct primary care practice," a practice that:

15 (a) Charges a periodic fee for services;

16 (b) Does not bill any third parties on a fee-for-service basis; and

17 (c) Limits any per visit charge to less than the monthly equivalent of the  
 18 periodic fee;

19 (4) "Primary care service," any service for the purpose of promotion of health or the  
 20 detection and management of disease or injury within the competency and training  
 21 of the primary care provider, including screenings, assessments, diagnoses, and  
 22 treatments.

23 **Section 2.** That a NEW SECTION be added:

1           **34-54-2. Provisions not applicable--Direct primary care agreement.**

2           A direct primary care agreement is not insurance and is not subject to title 58.  
3           Entering into a direct primary care agreement is not the business of insurance and is not  
4           subject to title 58. A primary care provider or agent of a health care provider is not  
5           required to obtain a certificate of authority or license under this act to market, sell, or  
6           offer to sell a direct primary care agreement.

7           **Section 3.** That a NEW SECTION be added:

8           **34-54-3. Requirements.**

9           To be considered a direct primary care agreement for the purposes of this Act, the  
10          agreement must meet all of the following requirements:

11          (1) Be in writing;

12          (2) Be signed by the primary care provider or agent of the primary care provider and  
13          the individual patient or his or her legal representative;

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

15          (4) Describe the scope of primary care services that are covered by the periodic fee;

16          (5) Specify the periodic fee and any additional fees outside of the periodic fee for  
17          ongoing care under the agreement;

18          (6) Specify the duration of the agreement and any automatic renewal periods;

19          (7) Require that no more than twelve months of the periodic fee be paid in advance  
20          and that upon discontinuing the agreement, all unearned funds are returned to the  
21          patient; and

22          (8) Prominently state in writing that the agreement is not health insurance.

23          **Section 4.** That a NEW SECTION be added:

24          **34-54-4. Accepting patients--Discontinuing care.**

25          Direct primary care practices may not decline to accept a new direct primary care  
26          patient or discontinue care to an existing patient solely because of the patient's health  
27          status. A direct practice may decline to accept a patient if the practice has reached its  
28          maximum capacity, or if the patient's medical condition is such that the provider is unable  
29          to provide the appropriate level and type of primary care services the patient requires. So  
30          long as the direct primary care practice provides the patient notice and opportunity to  
31          obtain care from another physician, the direct primary care practice may discontinue care  
32          for a direct primary care patient if:

33          (1) The patient fails to pay the periodic fee;

- 1        (2) The patient has performed an act of fraud;
- 2        (3) The patient repeatedly fails to adhere to the recommended treatment plan;
- 3        (4) The patient is abusive and presents an emotional or physical danger to the staff or
- 4                other patients of the direct practice; or
- 5        (5) The direct primary care practice discontinues operation as a direct primary care
- 6                practice.