

HB 769 -- DIRECT HEALTH CARE SERVICES

SPONSOR: Frederick

This bill specifies that a medical retainer agreement is a contract between a physician and an individual patient or the individual patient's legal representative in which the physician agrees to provide certain health care services described in the agreement to the individual patient for an agreed-upon fee and period of time. A medical retainer agreement is not insurance, entering into a medical retainer agreement is not the business of insurance, and a physician or agent of a physician is not required to obtain a certificate of authority or license to market, sell, or offer to sell a medical retainer agreement.

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

- (1) Be in writing;
- (2) Be signed by the physician or agent of the physician and the individual patient or the 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;
- (7) Prominently state in writing that the agreement is not health insurance; and
- (8) Prohibit the physician, but not the patient, from billing an insurer or other third-party payer for the services provided under the agreement.

For any patient who has established a medical savings account in compliance with 26 U.S.C. Section 223 and who enters into a medical retainer agreement under this section, fees under the patient's medical retainer agreement may be paid from the medical savings account, subject to any federal or state laws regarding qualified expenditures from a health savings account. The employer of any specified patient may make contributions into the patient's health

savings account 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.

Every health carrier and health benefit plan must consider all direct health care services costs under a medical retainer agreement, fee-for-service costs, and out-of-pocket costs incurred by a policyholder for health care services provided by a physician licensed in this state, by a licensed physical therapist acting upon referral from a licensed physician, by an advanced practice registered nurse working in a collaborative practice arrangement with a licensed physician, an assistant physician working in a collaborative practice arrangement with a licensed physician, a physician assistant working under a supervision agreement with a licensed physician, or by a licensed psychologist as qualified medical expenses for purposes of any deductible and any maximum out-of-pocket medical expense limits under a health benefit plan, high-deductible health insurance plan, or any other health insurance plan offered in this state.