

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 769**  
**98TH GENERAL ASSEMBLY**

1440H.04C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To amend chapter 376, RSMo, by adding thereto one new section relating to direct health care services.

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

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, 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 and an individual patient or such 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;**

(2) **"Physician", a physician licensed under chapter 334. Physician includes an individual physician or a group of physicians.**

**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 or agent of a physician 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 or agent of the physician and the individual patient or such individual patient's legal representative;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19           **(3) Allow either party to terminate the agreement on written notice to the other**  
20 **party;**

21           **(4) Describe the specific health care services that are included in the agreement;**

22           **(5) Specify the fee for the agreement;**

23           **(6) Specify the period of time under the agreement;**

24           **(7) Prominently state in writing that the agreement is not health insurance; and**

25           **(8) Prohibit the physician, but not the patient, from billing an insurer or other**  
26 **third-party payer for the services provided under the agreement.**

27           **5. (1) For any patient who enters into a medical retainer agreement under this**  
28 **section and who has established a health savings account (HSA) in compliance with 26**  
29 **U.S.C. Section 223, or who has a flexible spending arrangement (FSA) or health**  
30 **reimbursement arrangement (HRA), fees under the patient's medical retainer agreement**  
31 **may be paid from such health savings account or reimbursed through such flexible**  
32 **spending arrangement or health reimbursement arrangement, subject to any federal or**  
33 **state laws regarding qualified expenditures from a health savings account, or**  
34 **reimbursement through a flexible spending arrangement or a health reimbursement**  
35 **arrangement.**

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

37           **(a) Make contributions to such patient's health savings account, flexible spending**  
38 **arrangement, or health reimbursement arrangement to cover all or any portion of the**  
39 **agreed-upon fees under the patient's medical retainer agreement, subject to any federal or**  
40 **state restrictions on contributions made by an employer to a health savings account, or**  
41 **reimbursement through a flexible spending arrangement, or health reimbursement**  
42 **arrangement; or**

43           **(b) Pay the agreed-upon fees directly to the physician under the medical retainer**  
44 **agreement.**

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

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