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3 Title: Patients’ Right to Choose Non-Participating Physician Practices

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5 Introduced by: David Whalen MD, for the Kent County Delegation

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7 Original Author: Belen Amat, MD

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9 Referred To: Re-affirmation Calendar and Reference Committee C

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11 House Action: **REFERRED; BOARD ACTION REPORT #04-24 APPROVED**

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14 Whereas, Michigan Compiled Law 500.129 recognizes Direct Primary Care (DPC) or other
15 similar practices by clarifying that a medical retainer agreement is not insurance and not subject to
16 the Michigan Insurance Code if certain criteria is met, and

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18 Whereas, DPC and other practices may not participate with, or bill any insurance companies,
19 allowing DPC practices to provide high quality individualized care at affordable rates for patients,
20 and

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22 Whereas, the DPC option offers a plan that provides individuals and families with unlimited
23 access to their personal physician for a flat, monthly fee, and

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25 Whereas, patients choose DPC practices or other practices which provide longer office visits
26 with their physician, increased access via phone calls, text messages, and video chat, all while being
27 cost conscious, and

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29 Whereas, DPC plans are not health insurance, and DPC patients often carry high deductible
30 insurance plans and are responsible for the majority of the cost of outpatient testing, medications,
31 and consults, and

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33 Whereas, DPC physicians and other physician office teams have to become very skilled at
34 finding and negotiating low-cost medication, referrals, and studies for their patients, and

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36 Whereas, some insurance companies consider DPC physicians “out-of-network,” and will
37 not allow them to order medications, tests, or referrals on patients who have health insurance, even
38 when the patient pays 100 percent of the cost of the medical treatment due to high deductibles,
39 and

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41 Whereas, insurance companies will require a patient to visit an insurance-based doctor
42 solely to make the referral, thereby increasing healthcare costs and delaying care, and

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44 Whereas, unlike traditional insurance-based physicians who may be out of network with
45 particular insurance companies, DPC physicians are, by definition and legal distinction, a unique
46 class of physicians, and out-of-network with all insurances, and

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48 Whereas, the State of Maine recognized this distinction, and has passed legislation
49 prohibiting denial of referrals by DPC physicians; therefore be it

50 RESOLVED: That MSMS investigate the policies of Michigan health insurers as they relate to
51 recognition of direct primary care physicians and the ability of direct primary care physicians to
52 prescribe medication, order tests, and make referrals for patients who have health insurance plans.
53 MSMS shall report back to the 2025 MSMS House of Delegates.

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55 WAYS AND MEANS COMMITTEE FISCAL NOTE: \$12,000-\$24,000

Relevant MSMS Policy:

Promotion of Direct Primary Care Services (Resolution 23-15)

RESOLVED: That MSMS study and educate its members regarding alternative payment models for primary care including direct primary care contracts and "concierge" medicine using methods such as email, website, and webinar programs.

Increasing Insurance and Access Options for Patients (Resolution 50-14)

RESOLVED: That MSMS explore and monitor new programs and initiatives in health care such as those involving direct patient primary care and high deductible health care plans with health savings accounts; and be it further

RESOLVED: That MSMS educate physicians regarding new programs and initiatives in health care such as those involving direct patient primary care and high deductible health care plans with health savings accounts.

Relevant AMA Policy:

Direct Primary Care H-385.912

1. Our AMA supports: (a) inclusion of Direct Primary Care as a qualified medical expense by the Internal Revenue Service; and (b) efforts to ensure that patients in Direct Primary Care practices have access to specialty care, including efforts to oppose payer policies that prevent referrals to in-network specialists.

2. AMA policy is that the use of a health savings account (HSA) to access direct primary care providers and/or to receive care from a direct primary care medical home constitutes a bona fide medical expense, and that particular sections of the IRS code related to qualified medical expenses should be amended to recognize the use of HSA funds for direct primary care and direct primary care medical home models as a qualified medical expense.

3. Our AMA will seek federal legislation or regulation, as necessary, to amend appropriate sections of the IRS code to specify that direct primary care access or direct primary care medical homes are not health "plans" and that the use of HSA funds to pay for direct primary care provider services in such settings constitutes a qualified medical expense, enabling patients to use HSAs to help pay for Direct Primary Care and to enter DPC periodic-fee agreements without IRS interference or penalty.