

1 Introduced by

2 Date:

3 Subject: The Primary Care Trust - A Model Act¹

4 Statement of purpose: ² This bill proposes to: (1) create a single payment and
5 universal health care delivery system for primary care health services in this
6 state; (2) require health insurers to allocate a fair portion of their medical
7 spending for primary care services; (3) designate one or more Primary Care
8 Trusts to ensure the delivery of primary care and essential health services to all
9 residents of this state, (4) authorize a Primary Care Trust to pay for primary
10 care from a portion of health insurers' annual medical spending, with financial
11 incentives for providers that provide essential health services in each
12 community health district; (5) lower the growth rate of state health care
13 spending by empowering primary care providers to focus care delivery for
14 their patients at the least intensive and most affordable level of care, when
15 clinically appropriate - instead of more expensive and more intrusive hospital
16 and specialist health care services; and (6) protect consumers, businesses and
17 primary care providers from the consequences of anti-competitive
18 consolidation of health care services under the control of hospital
19 organizations.

1 It is hereby enacted by the General Assembly of the State:

2 Sec. 1. A Chapter of the General Laws entitled "Primary Care Trust" is added
3 to read:

4 The Primary Care Trust

5 Section 1. Definitions. As used in this chapter:

6 (1) "Essential health services" means primary care services (medical,
7 pediatric, and maternity), and those coordinated and integrated services which
8 support the health of patients in a community health district, such as mental
9 health services, substance use disorder services, physical therapy, dental and
10 oral services, eye care services, emergency medical services not provided by a
11 hospital-controlled organization, same-day access to urgent essential health
12 services, and other services identified by the Primary Care Trust and approved
13 by the Office.

14 (2) "Health insurer" means:

15 (A) A health insurance company;

16 (B) A nonprofit hospital and medical service corporation;

17 (C) A health maintenance organization;

18 (D) The state Medicaid program, and any other health care benefit
19 plan administered by the state for eligible individuals and families;

1 (E) A health care plan administered by the state and any agency or
2 instrumentality of the state for the benefit of their employees and dependents;
3 and

4 (F) To the extent permitted under federal law, Medicare, and any
5 administrator of an insured, self-insured, or publicly funded health care benefit
6 plan offered by public and private entities.³

7 (3) "Neighborhood health station"⁴ means a single clinical entity that
8 provides primary medical care, urgent care, primary dental care, mental and
9 behavioral health and substance use disorder treatment to the entire population
10 of a specific geographic area without regard to method of payment, and
11 actively works to improve the measured population health of that population.

12 (4) "Office" means the accountable public agency designated by the
13 State Legislature to be responsible for the implementation and oversight of the
14 Primary Care Trust Program.⁵

15 (4) "Primary care"⁶ means health care services delivered by health care
16 providers: (i) who are specifically trained for and skilled in first-contact and
17 continuing care for individuals with signs, symptoms, or health concerns, not
18 limited by problem origin, organ system, or diagnosis, (ii) who provide
19 services that are comprehensive, including those of more than a single
20 discipline, (iii) who provide such services in a coordinated manner, so that they
21 focus on the health goals of individual patients, and (iv) who provide such

1 services in a manner that ensures each service is effective at achieving those
2 individual health goals.

3 (5) "Primary care provider" means a physician, nurse practitioner,
4 physician's assistant, primary care medical practice, neighborhood health station,
5 federally qualified community health center, or other provider of primary care
6 services who contracts with, and is paid by the Primary Care Trust to provide
7 primary care services.

8 (6) "Primary Care Trust" means one or more non-profit organizations
9 designated by the Office to provide primary care and essential health services
10 in one or more geographical regions of the state.

11 (7) "Primary Care Trust Program" means the program administered by
12 the Office to provide primary care services to all residents of this state.

13 Section 2. Responsibilities of the Office related to the Primary Care Trust
14 Program.

15 (a) The Office shall:

16 (1) Ensure that affordable and quality primary care services are
17 available and accessible to all residents of this state.

18 (2) Identify one or more geographic regions of the state as primary care
19 community health districts.

20 (3) Designate one or more non-profit organizations as a Primary Care
21 Trust responsible for the delivery of primary care and essential health services
22 in each primary care community health district.

1 (4) In consultation with the Department of Health, establish program
2 and administrative standards for a Primary Care Trust.⁷

3 (5) Monitor the capacity and ability of each Primary Care Trust to
4 fulfill their responsibilities to residents of the community health district.

5 (6) Establish standards and procedures to fund the Primary Care Trusts
6 by annual Primary Care Trust assessments paid by health insurers.⁸

7 (A) The Office shall establish annually, through the rate-setting
8 process, a Primary Care Trust assessment to fund the Primary Care Trust
9 Program. The assessment shall be equal to 10 percent of total projected
10 medical spending by each health insurer doing business in this state. At the
11 conclusion of the rate-setting process, the Office shall issue an allocation order
12 apportioning each insurer's assessment among designated Primary Care Trusts
13 based on the population of the community health region and the essential
14 health needs of the community health region. The Office may permit variations
15 from the 10 percent assessment not to exceed plus or minus 0.5 percent to
16 account for changed circumstances, and the primary care and essential health
17 care needs of residents. The Office shall have jurisdiction over all health
18 insurers in this state for purposes of imposing the Primary Trust Fund
19 assessment.

20 (B) The Primary Care Trust assessment shall be administered,
21 collected, and enforced by the Department of Taxes, except for Medicaid

1 payments, and except that each health insurer shall pay its assessment directly
2 to Primary Care Trusts in accordance with the allocation order issued by the
3 Office at the conclusion of the annual rate-setting process.⁹

4 (b) The Office may:

5 (1) Adopt by rule such standards and procedures as are necessary or
6 desirable to carry out the purposes of this chapter.

7 (2) Re-designate another non-profit organization as the Primary Care
8 Trust for a community health district, if, after consultation with the board of
9 directors of a Primary Care Trust, the Office determines that the Primary Care
10 Trust has failed to propose or implement an adequate community health plan.

11 Section 3. The Primary Care Trust; establishment and duties.

12 (a) A Primary Care Trust shall be governed by a board of directors.¹⁰ One-
13 half of the board shall be composed of primary care providers and providers of
14 essential health services in the community health district. One-half of the board
15 shall be composed of community members residing in the community health
16 district. The articles of association or other governing document of a Primary
17 Care Trust must be approved by the Office. The appointment of initial
18 directors shall be made by the Office¹¹ within 90 days following the effective
19 date of this Model Act for a term not to exceed 12 months. The articles shall
20 include a mechanism for subsequent directors to be elected by providers and
21 community members for two years terms.

1 (b) The Primary Care Trust shall:

2 (1) Be responsible for the delivery of primary care services within its
3 community health district.

4 (2) Develop and implement a community health plan, approved
5 annually by the Office. The community health plan shall describe how the
6 Primary Care Trust shall:

7 (A) Provide primary care services to all residents of the community
8 health district;

9 (B) Provide essential health services, and expand the availability of
10 essential health services to all residents of the community health district;

11 (C) Improve the health of residents in the community health district
12 as measured by no more than four population health indicators such as for
13 smoking, body mass index, and vaccination rates. Such measures shall be
14 adopted by rule by the Office;

15 (D) Ensure patient access to primary care during evenings and
16 weekends; and

17 (E) Include such other elements as are designed to maintain and
18 improve the health of all residents of the community health district.

19 (b)(1)(A) The Primary Care Trust shall reimburse primary care providers
20 on a per capita, or on a fee for service basis.¹²

1 (B) Primary care providers and other providers of essential health
2 services who enter into an agreement with the Primary Care Trust to provide
3 coordinated essential health services shall be reimbursed with per capita
4 payments. Per capita payments shall provide a financial incentive for primary
5 care providers to offer essential health services, and to increase the percentage
6 of residents in the community health region that receive essential health
7 services.

8 (C) Primary care providers who do not enter into an agreement with
9 the Primary Care Trust to provide coordinated essential health services shall be
10 reimbursed on a fee for service basis, in accordance with a fee schedule
11 established by the Primary Care Trust.

12 (2) The Primary Care Trust may establish per capita payments or fee
13 schedules with or without patient cost sharing.¹³

14 (3) Primary care services provided to Medicare beneficiaries and
15 beneficiaries or other health plans offered by the federal government shall be
16 reimbursed by Medicare and such other federal agencies until such time as an
17 agreement can be reached to incorporate the Primary Care Trust as the
18 reimbursement mechanism for such patients.¹⁴

19 Section 4. Divestment of primary care practices controlled by hospital
20 organizations.¹⁵

21 (a) This section is intended to:

1 (1) Protect consumers and businesses in this state from anticompetitive
2 markets and financial burdens resulting from the acquisition of primary care
3 services by hospitals and hospital systems.

4 (2) Empower primary care providers to practice quality and cost-
5 effective health care free from undue control by hospitals and health insurers.

6 (b) On or before 12 months following the effective date of this chapter, the
7 Office shall issue an order to show cause why each hospital doing business in
8 this state which owns or has a controlling interest in a primary care provider
9 practice, or which employees primary care providers should not divest itself
10 from all or a portion of such practices and employees. The Office shall
11 thereafter issue a divestment order, after notice and an opportunity to be heard
12 by the hospital, and after affording other interested parties and the public an
13 opportunity to comment on the proposed divestment order.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on passage.

¹ This Primary Care Trust Model Act has been prepared by Michael Fine, MD, and Herb Olson. Dr. Fine is a primary care physician working in a health clinic in Rhode Island, and was the Director of the RI Department of Health between 2011 and 2015. Mr. Olson is a lawyer specializing in health policy and health insurance regulation. He previously served as the General Counsel to the Vermont Department of Financial Services, and to the RI Office of the Health Insurance Commissioner.

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² The primary goals of the Primary Trust Model Act, from the perspective of the drafters, are set forth in the Statement of Purpose; however, it will be important for drafters in different states to prepare a Statement of Purpose that effectively aligns with the health policy environment in their state.

³ Federal law does not permit a state to require Medicare, Tri-Care, FEHBP, the VA, and other federal health benefit plans to participate in the Primary Care Trust; however, states have imposed health care-related assessments on administrators of self-insured plans. In Vermont see 32 V.S.A. Chapter 243. In RI see R.I.G.L Title 42, Chapter 7.4.

⁴ The concept of a Neighborhood Health Station originated with a Ford Foundation funded project in China in the 1920s, headed by John Grant, M.D..

⁵ The Model Act does not identify a specific accountable state agency to implement and oversee the Primary Care Trust Program, because the choice of state agency will depend on factors that may vary from state to state. In Rhode Island the accountable state agency could be the Office of the Health Insurance Commissioner, which is RI's health reform leader, and has already adopted rules requiring that 10% of health insurance medical spending be allocated to primary care. In Vermont the accountable state agency could be the Green Mountain Care Board, which is Vermont's health reform leader, and which has the regulatory tools to implement the Primary Care Trust.

⁶ The definition of "primary care" in the Model Act is based in part on S.53, Vermont legislation introduced in 2017 to establish a universal, publically financed primary care system, and in part on the definition developed by Barbara Starfield. See Starfield, B. Primary Care: Balancing Health Needs, Services, and Technology. New York:Oxford University Press, 1998, p 22.

⁷ The designated and accountable state agency must have the authority and health policy expertise to implement and oversee the Primary Care Trust Program, but should also have clinical expertise available to guide its activities. Whether that is the state Department of Health or some other public or private entity is a decision best left to individual states.

⁸ The Primary Care Trust assessment is a core concept of the Primary Trust Model Act. It would be assessed on all health insurers, as defined by Section 1(2) of the Model Act. The definition includes traditional, commercial health insurance

companies, companies that act as Third Party Administrators for self-insured plans, public employee plans, and Medicaid. The definition does not required Medicare and other federal health plans to pay the assessment, because federal law preempts their participation in the Program without the consent of the federal government.

Under the Model Act, the assessment constitutes 10% of the overall medical spend of the health insurer. States should evaluate current spending for primary care, and develop their own assessment amount standard that best suits the needs of each state. The 10% amount is based on the obligation imposed in RI on health insurers.



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See the RI Affordability Standards, Section 10(b).

⁹ This provision for the administration, collection and enforcement of the assessment is intended to be a placeholder. Drafters should tailor the general assessment concept to state-specific tax laws and procedures.

¹⁰ The choice of organization type and appointment mechanism should depend on local state factors. The Model Act suggests a non-profit organization, with board membership apportioned between primary care providers and community members, and with a state agency to oversee the activities of the non-profit organization as a reasonable balance between primary care and patient autonomy for the delivery of health care services, and public accountability for the use of public funds.

¹¹ The prompt appointment of initial board members will facilitate implementation of the Program. Individual states may establish different appointment mechanisms that suit each state's needs.

¹² Primary care and essential health care providers who chose a more expansive role in the community health district (e.g. essential health services, commitment to population health measures, evening and weekend access) will be paid on a per capita basis, with more generous payments than primary care providers who chose a less expansive role and are paid on a fee for service basis.

¹³ Some states may choose to eliminate patient cost sharing for all primary care and essential health care services. Other states may choose to have the Primary Care Trust engage in some degree of benefit design to encourage community member participation in healthy behaviors and treatment for chronic conditions.

¹⁴ "Under the Model Act, Medicare beneficiaries are community members within the Primary Care Trust's community health district, and can receive treatment from primary care providers and essential health care providers paid by the Primary Care Trust. However, Medicare, Medicare supplemental insurance, and Medicare Advantage insurance typically pay providers directly on a fee for service basis. With the consent of CMS, such fee for service payments could be made to the Primary Care Trust, and thereafter payments to primary care and essential health care providers would be paid on a per capita or fee for service basis, depending upon the providers' contractual relationship with the Primary Care Trust. Individual states may decide whether to pay all or a portion of Medicare copayments and deductibles."

¹⁵ Divestment of primary care by hospital organizations is an option states should consider. Factors in favor of divestment include the percent of primary care providers employed by or controlled by hospital organizations in a particular state, and the extent to which state regulatory agencies are able and willing to mitigate against the monopolistic tendencies of large hospital organizations.