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Wallace
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2d HOUSE CS FOR CS FOR SENATE BILL NO. 45(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS WILSON, Hughes, Myers, Kaufman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance; relating to direct health care agreements; and relating to
2 the duties of the director of the division of insurance in the Department of Commerce,
3 Community, and Economic Development."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 21.03 is amended by adding a new section to read:

6 **Sec. 21.03.025. Direct health care agreements.** (a) A health care provider or
7 health care business and a patient or the representative of a patient may enter into a
8 direct health care agreement. A patient is not eligible to enter into a direct health care
9 agreement under this section if the patient is eligible to receive assistance under
10 AS 47.07 (Medical Assistance for Needy Persons) or AS 47.08 (Assistance for
11 Catastrophic Illness and Chronic or Acute Medical Conditions).

12 (b) A direct health care agreement must

13 (1) describe the health care services that the health care provider or
14 health care business makes available to the patient in exchange for payment of a

periodic fee and each location at which the health care services are available;

(2) specify

(A) the amount of the periodic fee a patient or the representative of a patient pays in exchange for the health care services that the health care provider or health care business makes available to the patient;

(B) the period covered by the periodic fee under (A) of this paragraph; and

(C) additional fees that the health care provider or health care business may charge in addition to the periodic fee, including cancellation fees;

(3) identify and include contact information for a representative of the health care provider or health care business that is responsible for receiving and addressing

(A) a complaint made by a patient relating to the agreement;

and

(B) a request made by a patient to amend the agreement, including a patient's request to change the name of the representative of the patient or the patient's mailing address, physical address, telephone number, electronic mail address, or other personal information;

(4) prominently state that the agreement is not health insurance and does not meet an individual or other health insurance mandate that may be required by federal law; and

(5) prominently state that the patient is not entitled to the protections under AS 21.07 (Patient Protections Under Health Care Insurance Policies) or AS 21.36 (Trade Practices and Frauds).

(c) A patient or the representative of a patient may terminate a direct health care agreement in writing within 30 days after entering into the agreement. If a patient or representative terminates an agreement under this subsection, the health care provider or health care business shall, not later than 30 days after the patient or representative terminates the agreement, refund to the patient or representative payments made under the agreement, less payments made for services the health care

1 provider or health care business has already performed that are not included in the
2 periodic fee.

3 (d) A health care provider or health care business may immediately terminate
4 a direct health care agreement if

5 (1) a patient's behavior threatens the safety of the health care provider,
6 the staff of the health care provider or health care business, or other patients of the
7 health care provider or health care business;

8 (2) a patient engages in disrespectful, derogatory, or prejudiced
9 behavior that is within the patient's control and the patient does not stop the behavior
10 even after the health care provider or the staff of the health care provider or health care
11 business requests the patient to stop the behavior; or

12 (3) a patient or the representative of a patient breaches the terms of the
13 agreement.

14 (e) A patient or the representative of a patient may immediately terminate a
15 direct health care agreement if a health care provider or a health care business
16 breaches the terms of the agreement.

17 (f) A health care provider or health care business may not change the periodic
18 fee under the agreement more than once a year and shall provide at least 45 days'
19 written notice of a change in the periodic fee. If a health care provider or health care
20 business increases the amount of the periodic fee, a patient or the representative of a
21 patient may terminate the agreement by providing to the health care provider or health
22 care business written notice of the termination not later than the day before the date on
23 which the change to the periodic fee is scheduled to take effect.

24 (g) Except as otherwise provided in this section and in AS 45.45.915, a health
25 care provider, a health care business, a patient, or the representative of a patient may
26 terminate a direct health care agreement for any reason in writing after at least 30
27 days' notice.

28 (h) A health care provider or health care business may charge a termination
29 fee only for termination of an agreement by a patient or the representative of a patient
30 under (c) or (g) of this section. The termination fee may not exceed an amount equal to
31 one month's cost of the periodic fee.

(i) Upon termination of an agreement under (f) or (g) of this section, the patient shall pay the health care provider or health care business the periodic fee, prorated through the date of termination of the agreement, and any additional fees for services the health care provider or health care business has already performed that are not included in the periodic fee.

(j) A health care provider or health care business may bill a patient or the representative of a patient for the periodic fee only after the end of the period to which the periodic fee applies.

(k) A patient's employer may pay the periodic fee and additional fees the patient owes a health care provider or health care business under a direct health care agreement. A payment by the employer under this subsection does not constitute engaging in the business of insurance or underwriting in this state, and the employer is not an insurer, a health maintenance organization, a health care insurer, or a medical service corporation by virtue of the payment.

(l) A direct health care agreement and health care services provided under a direct health care agreement are not subject to AS 21.07 (Patient Protections Under Health Care Insurance Policies) or AS 21.36 (Trade Practices and Frauds), but are subject to other consumer protection statutes and regulations, including AS 45.45.915.

(m) Offering or executing a direct health care agreement does not constitute engaging in the business of insurance or underwriting in this state, and, except as provided in this section, a direct health care agreement and health care services provided under a direct health care agreement are exempt from regulation by the division under this title. A direct health care agreement is not insurance, health insurance, health care insurance, or a health care insurance policy. A health care provider or health care business is not an insurer, a health maintenance organization, a health care insurer, or a medical service corporation by virtue of the offering or execution of a direct health care agreement or the provision of health care services under a direct health care agreement. A certificate of authority or license to market, sell, or offer to sell a direct health care agreement or health care services under a direct health care agreement is not required to offer or execute a direct health care agreement or provide health care services under a direct health care agreement.

(n) In this section,

(1) "direct health care agreement" means a written agreement between a health care provider or health care business and a patient or the representative of a patient to provide health care services in exchange for payment of a periodic fee;

(2) "health care business" means a business licensed by the state that is entirely owned by health care providers;

(3) "health care insurance" has the meaning given in AS 21.12.050(b);

(4) "health care insurer" has the meaning given in AS 21.54.500;

(5) "health care provider" has the meaning given in AS 21.07.250;

(6) "health care service"

(A) means a health care service or procedure that is provided in person or remotely by telemedicine or other means by a health care provider for the care, prevention, diagnosis, or treatment of a physical or mental illness, health condition, disease, or injury;

(B) does not include "emergency services" as defined in AS 21.07.250;

(7) "health insurance" has the meaning given in AS 21.12.050;

(8) "health maintenance organization" has the meaning given in AS 21.86.900;

(9) "medical service corporation" has the meaning given in AS 21.87.330.

* **Sec. 2.** AS 45.45 is amended by adding a new section to read:

Sec. 45.45.915. Direct health care agreements. (a) A health care provider or health care business may not decline to enter into a direct health care agreement with a new patient or terminate a direct health care agreement with an existing patient solely because of the patient's race, religion, color, national origin, age, sex, physical or mental disability, marital status, change in marital status, pregnancy, parenthood, or any other characteristic of a class of persons protected by a state law that prohibits discrimination.

(b) A health care provider or health care business may decline to enter into a

direct health care agreement with a new patient if the health care provider or health care business

(1) is unable to provide to the patient the health care services the patient requires; or

(2) does not have the capacity to accept new patients.

(c) A health care provider or health care business may terminate a direct health care agreement with an existing patient based on the patient's health status only if the health care provider is unable to provide to the patient the health care services the patient requires or in accordance with AS 21.03.025.

(d) A health care provider or health care business may not make, publish, disseminate, circulate, broadcast, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, broadcast, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement that is untrue, deceptive, or misleading with respect to

(1) the terms of or the benefits or advantages provided by a direct health care agreement;

(2) the characterization of a direct health care agreement, including the characterization of a direct health care agreement as health insurance or an alternative to health insurance;

(3) the business of a direct health care agreement.

(e) In this section,

(1) "direct health care agreement" has the meaning given in AS 21.03.025(n);

(2) "health care business" has the meaning given in AS 21.03.025(n);

(3) "health care provider" has the meaning given in AS 21.07.250;

(4) "health care service" has the meaning given in AS 21.03.025(n);

(5) "health insurance" has the meaning given in AS 21.12.050.

* **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(58) violating AS 45.45.915 (direct health care agreements).