

CS FOR HOUSE BILL NO. 176(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/25/22

Referred: Health and Social Services, Finance

Sponsor(s): REPRESENTATIVES RASMUSSEN, McCabe, Nelson, Fields

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to insurance; relating to direct health care agreements; relating to**
2 **unfair trade practices; and providing for an effective date."**

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

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

5 **Sec. 21.03.025. Direct health care agreements.** (a) A direct health care
6 agreement is a written health care agreement between a health care provider and a
7 government entity, an individual patient, or the employer of a patient to provide health
8 care services in exchange for payment of an annual fee.

9 (b) The health care provider shall disclose the services to be provided under
10 the direct health care agreement to the patient and to the person paying the annual fee
11 under the agreement. The annual fee must be comparable to the annual fee for
12 comparable services provided by the health care provider to other patients under the
13 provider's other direct health care agreements and may not be based solely on the
14 patient's health status or sex. The health care provider may not assess charges or

1 receive compensation other than the annual fee for health care services and additional
2 fees specified in the agreement. However, a patient may submit a health care insurance
3 claim and the health care provider may assess charges or receive compensation for
4 health care services not included in the agreement.

5 (c) A direct health care agreement between a health care provider and a
6 government entity, an individual patient, or the employer of a patient must

7 (1) describe the health care services to be provided by the health care
8 provider;

9 (2) specify the annual fee for the health care services and additional
10 fees that the health care provider may charge in addition to the annual fee;

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

14 (4) be printed in a font not smaller than 12 points and written using
15 plain language that an individual with no medical training can understand;

16 (5) identify and include contact information for the person responsible
17 for receiving and addressing a complaint made by a patient;

18 (6) state that the annual fee under the agreement for services

19 (A) must be comparable to the annual fee for comparable
20 services provided by the health care provider to other patients under the
21 provider's other direct health care agreements; and

22 (B) may not be based solely on the patient's health status or
23 sex; and

24 (7) specify the number of patients the health care provider has the
25 capacity to serve and the number of patients the health care provider is currently
26 serving.

27 (d) A direct health care agreement between a health care provider and a
28 patient must allow a patient to terminate the agreement in writing within 30 days after
29 entering into the agreement. If a patient terminates an agreement under this subsection,
30 the provider shall, not later than 30 days after the patient terminates the agreement,
31 refund to the patient payments made under the agreement, less payments made for

1 services the provider has already performed. The provider may charge a nominal
2 termination fee for termination of an agreement under this subsection.

3 (e) A direct health care agreement between a health care provider and a patient
4 must allow a party to terminate the agreement in writing after at least 30 days' notice
5 and in accordance with the agreement. The agreement must provide for a refund and
6 may provide for a nominal termination penalty or a nominal termination fee for
7 termination of an agreement under this subsection.

8 (f) A direct health care agreement between a health care provider and a
9 government entity or the employer of a patient may be terminated in accordance with
10 the agreement. An agreement must provide for a refund and may provide for a
11 nominal termination penalty or a nominal termination fee.

12 (g) The parties to a direct health care agreement may modify or renew the
13 agreement by written agreement of the parties and in a manner consistent with this
14 section. A health care provider may not change the annual fee under the agreement
15 more than once a year, and shall provide at least 45 days' written notice of a change in
16 the annual fee.

17 (h) A direct health care agreement and health care services provided under a
18 direct health care agreement are subject to consumer protection statutes and
19 regulations, including AS 45.45.915.

20 (i) Offering or executing a direct health care agreement does not constitute
21 engaging in the business of insurance or underwriting in this state, and, except as
22 provided by this section, a direct health care agreement and health care services
23 provided under a direct health care agreement are exempt from regulation by the
24 division under this title. A health care provider is not a health maintenance
25 organization, insurer, or insurance producer by virtue of the offering or execution of a
26 direct health care agreement or the provision of health care services under a direct
27 health care agreement. A certificate of authority or license to market, sell, or offer to
28 sell a direct health care agreement or health care services under a direct health care
29 agreement is not required to offer or execute a direct health care agreement or provide
30 health care services under a direct health care agreement.

31 (j) A person may not make, publish, or disseminate an assertion,

1 representation, or statement with respect to the business of direct health care
 2 agreements, or with respect to a person in the conduct of the person's direct health care
 3 agreement business, that is untrue, deceptive, or misleading, and may not

4 (1) misrepresent the benefits, advantages, conditions, sponsorship,
 5 source, or terms of a direct health care agreement;

6 (2) use a name or title of a direct health care agreement
 7 misrepresenting its true nature; or

8 (3) make a false or misleading statement as to a direct health care
 9 agreement.

10 (k) Not later than September 1 of each year, a health care provider that enters
 11 into direct health care agreements with government entities, patients, or employers of
 12 patients shall file with the division, in the form prescribed by the division, a report
 13 relating to direct health care agreements entered into or maintained by the provider's
 14 health care practice in the preceding calendar year. The report must include

15 (1) the number of health care providers in the health care practice;

16 (2) the number of direct health care patients the health care practice
 17 has the capacity to serve;

18 (3) the number of government entities, patients, and employers of
 19 patients that entered into or maintained a direct health care agreement with the health
 20 care practice in the preceding calendar year and the annual fee paid by each
 21 government entity, patient, and employer of a patient, as applicable, under the direct
 22 health care agreement;

23 (4) the percentage of the patients that entered into or maintained a
 24 direct health care agreement with the health care practice in the preceding calendar
 25 year who are paying fees and costs under a direct health care agreement through

26 (A) the federal Medicare program; and

27 (B) medical assistance under AS 47.07;

28 (5) other information requested by the division.

29 (l) In this section,

30 (1) "health care practice" means a business that provides health care
 31 services;

1 (2) "health care provider" means a firm, corporation, association,
 2 institution, or other person licensed or otherwise authorized in this state to provide
 3 health care services;

4 (3) "health care service" means a service or procedure, other than a
 5 service or procedure that is immediately necessary to prevent the death or serious
 6 impairment of the health of the patient, that is provided in person or remotely by
 7 telemedicine or other means by a health care provider for the care, prevention,
 8 diagnosis, or treatment of a physical or mental illness, health condition, disease, or
 9 injury.

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

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

18 (b) A health care provider may decline to enter into a direct health care
 19 agreement with a new patient or terminate a direct health care agreement with an
 20 existing patient based on the patient's health status only if the health care provider is
 21 unable to provide to the patient the level or type of care the patient requires for a
 22 medical condition. Before terminating a direct health care agreement with an existing
 23 patient, a health care provider shall ensure that the patient is referred to a health care
 24 provider who

25 (1) is able to provide the level or type of care the patient requires; and

26 (2) agrees to provide to the patient the level or type of care the patient
 27 requires.

28 (c) A health care provider may decline to enter into a direct health care
 29 agreement with a new patient if the health care provider does not have the capacity to
 30 accept new patients.

31 (d) In this section,

1 (1) "direct health care agreement" means an agreement described in
2 AS 21.03.025;

3 (2) "health care provider" has the meaning given in AS 21.03.025(l).

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

5 (58) violating AS 21.03.025 (direct health care agreements);

6 (59) violating AS 45.45.915 (direct health care agreements).

7 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: REGULATIONS. The director of the division of insurance may adopt
10 regulations necessary to implement the changes made by this Act. The regulations take effect
11 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
12 implemented by the regulations.

13 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

14 * **Sec. 6.** Except as provided in sec. 5 of this Act, this Act takes effect January 1, 2023.