

SENATE BILL NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS WILSON, Hughes, Myers, Kaufman

Introduced: 1/25/23

Referred: Health & Social Services, Labor & Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance; relating to direct health care agreements; and relating to
2 unfair trade practices."

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 agreement between a health care provider or health care
7 business and a patient or the representative of a patient to provide health care services
8 in exchange for payment of a periodic fee. A patient is not eligible to enter into a
9 direct health care agreement under this section if the patient is eligible to receive
10 assistance under AS 47.07 (Medical Assistance for Needy Persons) or AS 47.08
11 (Assistance for 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

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

2 (2) specify

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

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

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

11 (3) identify and include contact information for a representative of the
12 health care provider or health care business that is responsible for receiving and
13 addressing a complaint made by a patient relating to the agreement;

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

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

20 (c) A direct health care agreement must allow a patient or the representative of
21 a patient to terminate the agreement in writing within 30 days after entering into the
22 agreement. If a patient or representative terminates an agreement under this
23 subsection, the health care provider or health care business shall, not later than 30 days
24 after the patient or representative terminates the agreement, refund to the patient or
25 representative payments made under the agreement, less payments made for services
26 the health care provider or health care business has already performed that are not
27 included in the periodic fee. The health care provider or health care business may
28 charge a termination fee for termination of an agreement under this subsection, not to
29 exceed an amount equal to one month's cost of the periodic fee.

30 (d) A direct health care agreement must allow a health care provider, a health
31 care business, a patient, or the representative of a patient to terminate the agreement in

1 writing after at least 30 days' notice. The agreement must require that the patient pay
2 the health care provider or health care business the periodic fee, prorated through the
3 date of termination of the agreement, and that the patient pay any additional fees for
4 services the health care provider or health care business has already performed that are
5 not included in the periodic fee. The health care provider or health care business may
6 charge a termination fee for termination of an agreement under this subsection by a
7 patient or representative, not to exceed an amount equal to one month's cost of the
8 periodic fee.

9 (e) A health care provider or health care business may not change the periodic
10 fee under the agreement more than once a year and shall provide at least 45 days'
11 written notice of a change in the periodic fee.

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

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

21 (h) A health care provider or health care business may immediately terminate
22 a direct health care agreement if

23 (1) a patient repeatedly fails to comply with the treatment plan for the
24 patient recommended by the health care provider or health care business;

25 (2) a patient's behavior threatens the safety of the health care provider,
26 the staff of the health care provider or health care business, or other patients of the
27 health care provider or health care business; or

28 (3) a patient engages in disrespectful, derogatory, or prejudiced
29 behavior that is within the patient's control and the patient does not stop the behavior
30 even after the health care provider or the staff of the health care provider or health care
31 business requests the patient to stop the behavior.

1 (i) A health care provider or a health care business may immediately terminate
 2 a direct health care agreement if a patient or the representative of a patient breaches
 3 the terms of the agreement. A patient or representative may immediately terminate a
 4 direct health care agreement if a health care provider or a health care business
 5 breaches the terms of the agreement.

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

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

23 (l) In this section,

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

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

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

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

29 (5) "health care service"

30 (A) means a health care service or procedure that is provided in
 31 person or remotely by telemedicine or other means by a health care provider

1 for the care, prevention, diagnosis, or treatment of a physical or mental illness,
2 health condition, disease, or injury;

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

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

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

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

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 or
12 health care business may not decline to enter into a direct health care agreement with a
13 new patient or terminate a direct health care agreement with an existing patient solely
14 because of the patient's race, religion, color, national origin, age, sex, physical or
15 mental disability, marital status, change in marital status, pregnancy, parenthood, or
16 any other characteristic of a class of persons protected by a state law that prohibits
17 discrimination.

18 (b) A health care provider or health care business may decline to enter into a
19 direct health care agreement with a new patient if the health care provider or health
20 care business

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

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

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

28 (d) In this section,

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

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

- 1 (3) "health care provider" has the meaning given in AS 21.07.250;
- 2 (4) "health care service" has the meaning given in AS 21.03.025(I).
- 3 * **Sec. 3.** AS 45.50.471(b) is amended by adding a new paragraph to read:
- 4 (58) violating AS 45.45.915 (direct health care agreements).