

**ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 27, 2023

1:32 p.m.

**MEMBERS PRESENT**

Senator Jesse Bjorkman, Chair  
Senator Click Bishop, Vice Chair  
Senator Elvi Gray-Jackson  
Senator Kelly Merrick  
Senator Forrest Dunbar

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 74

"An Act relating to an interstate physical therapy licensure compact; relating to the licensure of physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants; and providing for an effective date."

- MOVED SB 74 OUT OF COMMITTEE

SENATE BILL NO. 75

"An Act relating to an audiology and speech-language interstate compact; relating to the practice of audiology and the practice of speech-language pathology; and providing for an effective date."

- MOVED SB 75 OUT OF COMMITTEE

SENATE BILL NO. 84

"An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System and Registry; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money

transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing services; repealing currency exchange licenses; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 45

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

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 74

SHORT TITLE: PHYSICAL THERAPY LICENSURE COMPACT

SPONSOR(S): SENATOR(S) WILSON

02/17/23	(S)	READ THE FIRST TIME - REFERRALS
02/17/23	(S)	L&C, FIN
03/08/23	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/08/23	(S)	Heard & Held
03/08/23	(S)	MINUTE(L&C)
03/27/23	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 75

SHORT TITLE: AUD. & SPEECH-LANG INTERSTATE COMPACT

SPONSOR(S): SENATOR(S) WILSON

02/17/23	(S)	READ THE FIRST TIME - REFERRALS
02/17/23	(S)	L&C, FIN
03/08/23	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/08/23	(S)	Heard & Held
03/08/23	(S)	MINUTE(L&C)
03/27/23	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 84

SHORT TITLE: MONEY TRANSMISSION; VIRTUAL CURRENCY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/24/23	(S)	READ THE FIRST TIME - REFERRALS
02/24/23	(S)	L&C, JUD, FIN
03/06/23	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/06/23	(S)	Heard & Held
03/06/23	(S)	MINUTE(L&C)

03/27/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 45

SHORT TITLE: DIRECT HEALTH AGREEMENT: NOT INSURANCE

SPONSOR(S): WILSON

01/25/23 (S) READ THE FIRST TIME - REFERRALS  
01/25/23 (S) HSS, L&C  
02/07/23 (S) HSS AT 3:30 PM BUTROVICH 205  
02/07/23 (S) Heard & Held  
02/07/23 (S) MINUTE(HSS)  
02/09/23 (S) HSS AT 3:30 PM BUTROVICH 205  
02/09/23 (S) Heard & Held  
02/09/23 (S) MINUTE(HSS)  
02/21/23 (S) HSS AT 3:30 PM BUTROVICH 205  
02/21/23 (S) Scheduled but Not Heard  
02/23/23 (S) HSS AT 3:30 PM BUTROVICH 205  
02/23/23 (S) Moved CSSB 45(HSS) Out of Committee  
02/23/23 (S) MINUTE(HSS)  
02/24/23 (S) HSS RPT CS 1DP 4NR SAME TITLE  
02/24/23 (S) DP: WILSON  
02/24/23 (S) NR: TOBIN, KAUFMAN, GIESSEL, DUNBAR  
03/27/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

SENATOR DAVID WILSON, District N  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 74 and SB 75.

SUSAN ADAMS, Director  
State Legislative & Regulatory Affairs  
American Speech-Language-Hearing Association (ASHA)  
Rockville, Maryland

**POSITION STATEMENT:** Stated support for SB 75.

NAHALE KALFAS, General Counsel  
Speech Language Pathology and Ideology Interstate Compact;  
Legal Counsel, Council of State Governments  
Raleigh, North Carolina

**POSITION STATEMENT:** Stated support for SB 75.

ROBERT SCHMIDT, Director  
Division of Banking and Securities  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Offered a recap of SB 84.

TRACY RENO, Chief of Examinations  
Division of Banking and Securities  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Offered a recap of SB 84.

LAHKA PEACOCK, Co-Owner  
QuyanaCARD  
Nome, Alaska

**POSITION STATEMENT:** Testified in support of SB 84

MATTHEW LAMBERT, Deputy General Counsel  
Conference of State Bank Supervisors (CSBS)  
Washington, District of Columbia

**POSITION STATEMENT:** Testified in support of SB 84.

ADAM ATLAS, Attorney at Law  
Money Services Business Association (MSBA)  
Montreal, Quebec, Canada

**POSITION STATEMENT:** Testified in support of SB 84.

SENATOR DAVID WILSON, District N  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 45.

JASMINE MARTIN, Staff  
Senator David Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 45.

PETE DIEMER, Health Care Attorney  
Clayton and Diemer, LLC  
Anchorage, Alaska

**POSITION STATEMENT:** Gave invited testimony on SB 45.

DR. JOSH UMBEHR, Family Physician  
Atlas MD  
Wichita, Kansas

**POSITION STATEMENT:** Gave invited testimony on SB 45.

#### **ACTION NARRATIVE**

[1:32:25 PM](#)

**CHAIR JESSE BJORKMAN** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Merrick, Gray-Jackson, Bishop, and Chair Bjorkman. Senator Dunbar joined the meeting immediately thereafter.

**SB 74-PHYSICAL THERAPY LICENSURE COMPACT**

[1:33:57 PM](#)

CHAIR BJORKMAN announced the consideration of SENATE BILL NO. 74 "An Act relating to an interstate physical therapy licensure compact; relating to the licensure of physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants; and providing for an effective date."

He asked the sponsor to provide a recap of SB 74 which was introduced to the committee on March 8.

[1:34:51 PM](#)

SENATOR DAVID WILSON, District N, Alaska State Legislature, Juneau, Alaska, sponsor of SB 74, gave a recap of the bill. He said SB 74 is an act establishing an interstate physical therapy compact. The compacts established in SB 74 and SB 75 allow the state to retain its autonomy and continue to set the regulations and fee structures for the interstate compact piece as well as for those that would apply for licensure under state regulations.

[1:36:06 PM](#)

SENATOR DUNBAR joined the meeting.

[1:36:25 PM](#)

CHAIR BJORKMAN opened public testimony on SB 74; finding none, he closed public testimony.

CHAIR BJORKMAN solicited the will of the committee.

[1:37:12 PM](#)

SENATOR BISHOP moved to report SB 74, work order 33-LS0138\S, from committee with individual recommendations and attached fiscal note(s).

[1:37:39 PM](#)

CHAIR BJORKMAN found no objection and SB 74 was reported from the Senate Labor and Commerce Standing Committee.

[1:37:46 PM](#)

At ease.

**SB 75-AUD. & SPEECH-LANG INTERSTATE COMPACT**

[1:39:27 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SENATE BILL NO. 75 "An Act relating to an audiology and speech-language interstate compact; relating to the practice of audiology and the practice of speech-language pathology; and providing for an effective date."

This is the second hearing. He asked the sponsor to provide a recap of SB 75 which was introduced to the committee on March 8.

[1:40:13 PM](#)

SENATOR DAVID WILSON, District N, Alaska State Legislature, Juneau, Alaska, sponsor of SB 75, stated that SB 75 establishes an Act relating to an audiology and speech-language pathology interstate compact. This helps promote cooperation among the states; interstate compact licensures help increase the quality of care by decreasing burdens to licensing while maintaining rigorous licensing standards and state sovereignty.

[1:40:55 PM](#)

CHAIR BJORKMAN asked if members had questions for the bill sponsor; seeing none, he opened public testimony on SB 75.

[1:41:22 PM](#)

SUSAN ADAMS, Director of State Legislative & Regulatory Affairs, American Speech, Language and Hearing Association, Rockville, Maryland, stated support for SB 75 and offered to answer questions about how the compact works.

[1:41:58 PM](#)

NAHALE KALFAS, General Counsel, Audiology and Speech-Language Pathology Interstate Compact; Legal Counsel, Council of State Governments, Raleigh, North Carolina, stated support for SB 75 and offered to answer questions about how the compact works.

[1:42:35 PM](#)

CHAIR BJORKMAN closed public testimony on SB 75 and solicited the will of the committee.

[1:42:54 PM](#)

SENATOR BISHOP moved to report SB 75, work order 33-LS0139\B, from committee with individual recommendations and attached fiscal note(s).

CHAIR BJORKMAN found no objection and SB 75 was reported from the Senate Labor and Commerce Standing Committee.

[1:43:21 PM](#)

At ease.

**SB 84-MONEY TRANSMISSION; VIRTUAL CURRENCY**

[1:46:36 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SENATE BILL NO. 84 "An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System and Registry; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing services; repealing currency exchange licenses; and providing for an effective date."

He noted that this is the second hearing of this bill in the Senate Labor and Commerce Committee.

[1:47:30 PM](#)

ROBERT SCHMIDT, Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development, Anchorage, Alaska, offered a recap of SB 84. He reported that money transmission is a \$5.8 billion industry to, from, and within Alaska. About two-thirds of that industry is end-to-end payments owned by mobile payment applications such as PayPal, Cash App, Apple Pay, and Google Pay.

MR. SCHMIDT explained that the legislature wrote the current money transmission law in the mid-2000s, passed it in 2007 and it took effect in 2008. At the time it was written, mobile payments, iPhones, and cryptocurrency did not exist. Dean Fleer, the division's most senior money transmission examiner joined

the division in 2011; at that time, there were about 30 licensed money-transmitters, now there are 168, but division staffing for this industry remains the same. SB 84 resulted from a joint industry regulator approach. He encouraged members of the committee to hear from industry professionals who are knowledgeable about the topic.

There is no state advocating for federal preemption. No industry trade group or major market participant is advocating for federal takeover of this space. Alaska would be a minority of one if it were to ask for federal takeover of money transmission. While some aspects are overseen by the federal government, no federal regulator performs overall safety and soundness examinations of the money transmission industry. States perform that function. The division responds to nearly 1,000 inquiries from constituents regarding financial concerns. Alaska is in a better position to maintain control of money transmissions and protect Alaskans. Yielding this authority to the federal government would diminish Alaska's sovereignty.

[1:50:49 PM](#)

TRACY RENO, Chief of Examinations, Division of Banking and Securities, Department of Commerce, Community and Economic Development, Anchorage, Alaska, offered the following recap of SB 84:

SB 84 amends Title 6, Chapter 55 of The Alaska Money Services Uniform Act. The purpose of this bill is to replace existing money state transmission laws to modernize licensure requirements; add model language for virtual currency industries; allow the Department of Commerce Community and Economic Development to coordinate with other states in the regulation, licensing, and supervision to standardize the types of activities that are subject to licensing; and modernize safety and soundness requirements for money transmission. There will be a lot of repeal and reenacts because this bill is adopting a model law.

This bill conforms with the model law by providing application requirements for a money transmitter license, and allows the department to change or update reforms to be consistent with licensing requirements in the Nationwide Multistate Licensing System (NMLS). This is important because companies that transmit money don't want 50 different sets of laws to follow. Money transmitters spent two years drafting the model

law with state regulators. This bill reduces regulatory burden by streamlining initial application and renewal processes so that they are the same every year and in every state. Our licensers want Alaska's statutes to be uniform with the rest of the country. It's less paperwork for the companies requiring less staff; it gets their license approved faster so that they can get businesses up and running, and it says Alaska is open for business.

[1:52:35 PM](#)

MS. RENO continued.

This bill conforms with the model law by changing license renewal, renewal reporting, and renewal terminology. Fees collected at the time of renewal will change with this bill. Fees are currently set in regulation, and Section 52 ensures that fees collected are sufficient to cover the cost and to do the work. The annual renewal fee will be based on the licensee's total volume of money transmission to, from, and within Alaska. A good example of this is currently a licensee that transmits \$100,000,000 each year pays the exact same renewal fee as a licensee that transmits \$1 billion a year. There are currently 168 licensed Alaska transmitters that each pay \$1,000 annually to renew their license; no matter their size, their complexity, or their geographic location they all pay the same flat \$1000 annual renewal fee. We will take special consideration for small mom and pop businesses to ensure that the tier is not a barrier to entry for these small businesses. Having the details of renewal fees in regulation will allow us to update the fees charged to cover the regulatory costs of supervision and keep pace with growth and innovation in the industry.

[1:53:45 PM](#)

MS. RENO continued.

The proposed amendments to AS 06.55.850 would create a tiered assessment for renewal fees. The assessment would have several tiers with a range of volume transmitted annually, and would take a percentage to calculate the renewal fee. The division has been researching what some other state's assessments look like, and the hourly cost of examinations would no longer be billed for those examinations which are 1000s of dollars. They'll be covered as part of the

new tiered assessment renewal fee. Expenses for travel would still be billed. This should reduce the regulatory cost of small money transmitters, providing businesses certainty when planning for their annual budgets. This bill conforms with the model law and will protect Alaska consumers by running criminal background checks on people who control or run a money transmitter company. These background checks will be conducted automatically at application through the NMLS, keeping bad actors from operating the companies that we license and saving hundreds of hours of DBS staff time.

[1:54:41 PM](#)

MS. RENO continued.

This bill conforms with the model law to add new sections regarding virtual currency derived from the Uniform Law Commission's language from the Uniform Regulation of Virtual Currency Businesses Act. It uses standard uniform language and it provides a foundation to regulate virtual currency. This allows the division to regulate virtual currency and adds virtual currency to the definition of money transmission. Details of what is and is not considered licensed activity are provided in the bill. It details a list of exempted activities for things like online gaming and provides disclosure requirements, so that Alaskan consumers know where to go when they have a complaint. This bill updates enforcement provisions for consistency with the model law regarding the suspension and revocation of the license. It amends civil penalties allowing the department to cover regulatory costs by assessing its costs and expenses for investigations and allowing a broader spectrum of orders to be issued. This amendment will allow staff to use network supervision working with other states, to jointly conduct examinations, and to investigate and take multi-state enforcement action on bad actors. These amendments also ensure that in the case of bankruptcy, the funds entrusted to a money transmitter to send are the consumer's property, not the company's. The licensee will be prohibited from using these funds as assets on their financial statements.

[1:55:59 PM](#)

MS. RENO continued.

While this bill follows the model law, a few modifications were made to make sure it was the right fit for Alaska. As an example related to net worth requirements, in the model law the net worth requirement starts at \$100,000. After listening to small businesses and other stakeholders last session, the division reduced the net worth requirement to \$35,000, as this is more appropriate for Alaska. This bill also allows the department to exempt applicants or licensees from the net worth requirements.

Why is this bill important?

Last year Alaskans sent or received 31 million money transmission transactions worth \$5.8 billion dollars. This bill will protect Alaska consumers, it will reduce regulatory burden, it adopts the model law that industry drafted with state regulators, it will protect Alaska's sovereignty by creating uniform statutes across the country, and this bill will allow the division to have the ability to update fees and require license in regulation to keep up with technology and the innovation in this ever-evolving financial industry. Events of the last year have demonstrated the need for modernization of Alaska's money transmission laws.

[1:57:27 PM](#)

SENATOR GRAY-JACKSON thanked Mr. Schmidt, Tracy Reno, and the Division of Banking and Securities staff for their help and explanation of cryptocurrency.

[1:58:19 PM](#)

CHAIR BJORKMAN opened public testimony on SB 84.

[1:58:49 PM](#)

LAHKA PEACOCK, Co-Owner, QuyanaCARD, Nome, Alaska, testified in support of SB 84. He stated that QuyanaCARD is a pre-paid card business based in Nome that services 1500 cardholders in rural villages that lack access to traditional banking services. He shared that when an auditor performed their first bank examination, his company had to cover the cost of the auditor's transportation, lodging, car rental, and hourly rate. He learned from the auditor that all of their paperwork and fees are the same as Google Pay, a billion dollar business. His business continued to operate through difficult times, always pushing to change the regulations to reduce the annual renewal fees, bonding fees, and exam fees that cost as much as Google Pay.

Exam fees are \$20000 which is the same as PayPal. Full financial audits cost \$3500 annually. SB 84 would help his business deal with these barriers to entry, allowing QuyanaCARD to stay in business and pave the way for more similar businesses.

[2:02:48 PM](#)

MATTHEW LAMBERT, Deputy General Counsel for Policy, Conference of State Bank Supervisors (CSBS), Washington, D.C., testified in support of SB 84. He explained that CSBS is an association of the banking departments from each state. He said SB 84 should be "win win win," by reducing the regulatory burden for industry, modernizing requirements for regulators including making it easier for regulators to work together and more efficiently, and allowing for the states to continue to serve as laboratories of innovation. Because states have taken the lead, hundreds of new companies are trying to enter the industry, creating a competitive framework for innovation. The main challenge is having the flexibility that allows for companies to operate on a scale that can focus on niche situations, all the way up to global superpowers.

[2:04:59 PM](#)

CHAIR BJORKMAN asked how this legislation would prevent a recurrence of the fraud scandal like that of Sam Bankman-Fried, founder and CEO of the cryptocurrency exchange company, FTX.

MR. LAMBERT said that FTX and Sam Bankman-Fried moved money across global borders. He pointed out that the United States cannot prevent fraudulent transactions across borders, but legislators can ringfence US assets. He commented on the fallout of FTX and explained how to protect customers from the scenario he described.

[2:07:29 PM](#)

MR. SCHMIDT commented that a common feature of the noteworthy crypto bankruptcies the Division of Banking and Securities reviewed last year was that customer accounts had been pledged as assets of the company to the company's creditors. He explained that SB 84 contains a prohibition that a customer's account cannot be pledged as collateral to the exchanger's creditors. This issue has been rampant in crypto bankruptcies.

[2:08:39 PM](#)

ADAM ATLAS, Money Services Business Association (MSBA), Montreal, Quebec, Canada, stated that the Money Transmission Modernization Act will codify the model act that was referenced earlier. He said MSBA is in favor of SB 84 and supports rolling

out the model law because it provides significant benefits to customers, states and the industry alike. Customers will benefit from dealing with money transmitters in Alaska that are regulated in a way that is consistent with how those suppliers are regulated in other states. The industry will benefit from greater clarity in operations and supervision and reducing the complexity of complying with state-specific laws and the need to comply with duplicate oversight requirements. This new law will encourage more services in Alaska and serve underbanked consumers. He said MSBA supports the idea of the regulator setting the fees so that smaller volume transmitters would pay fewer fees than a large volume transmitter. Greater efficiency would be achieved under the model act, empowering the state to use technology, apply data analytics, and share resources under a network system.

[2:13:00 PM](#)

CHAIR BJORKMAN closed public testimony on SB 84 and held SB 84 in committee. He stated that written testimony may be submitted to slac@akleg.gov.

[2:14:03 PM](#)

At ease.

**SB 45-DIRECT HEALTH AGREEMENT: NOT INSURANCE**

[CSSB 45(HSS) was before the committee.]

[2:19:29 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SENATE BILL NO. 45 "An Act relating to insurance; relating to direct health care agreements; and relating to unfair trade practices."

He asked Senator Wilson to introduce the bill.

[2:19:51 PM](#)

SENATOR DAVID WILSON, District N, Alaska State Legislature, Juneau, Alaska, sponsor of SB 45, paraphrased the following sponsor statement:

[Original punctuation provided.]

Senate Bill 45 is necessary to reduce barriers between Alaskans and their chosen health care provider. This bill allows patients and health care providers to enter into direct health care agreements (DHCA). A

direct health care agreement is a contractual agreement between a patient and a provider for health care services. The patient pays a flat, periodic fee (generally monthly) in exchange for routine visits and access to their health care provider.

These agreements are only between a provider and a patient. Unlike the insurer-patient-provider trifecta, in a DHCA agreement, no third-party is directly participating in or profiting from the provider-patient relationship. Doctors currently spend about half their working hours on paperwork - including paperwork for third party insurance. Direct Health Care (DHC) reduces bureaucracy by allowing patients to pay a flat fee for routine care instead of billing insurance for every doctor's visit. The reduction in administrative burden leads to reduced costs and more time in the day for doctors to spend with their patients.

While a person with private health insurance may elect to obtain a DHCA to supplement their current health insurance - such as a high deductible plan, but these models are not health insurance - nor do they replace it - and should not be regulated as such.

This bill will clearly exclude qualified DHCA from Title 21, or insurance regulations, and will clear up any confusion regarding the legality of direct health care agreements thereby improving the public's access to lower cost, high quality health care.

Please contact Jasmin Martin in my office at (907)465-8165 or by email at [Jasmin.Martin@akleg.gov](mailto:Jasmin.Martin@akleg.gov) for more information. I respectfully ask for your support of this legislation.

2:22:09 PM

SENATOR GRAY-JACKSON asked if he said that SB 45 eliminates explanation of benefits (EOBs).

SENATOR WILSON answered no, but somebody who had a direct health care provider agreement that was outside of insurance would not receive an EOB because the benefit would be within their health contract.

SENATOR GRAY-JACKSON commented that she likes receiving electronic EOBs and sought further clarification.

SENATOR WILSON replied that this is not insurance and would be separate from getting an EOB.

[2:23:13 PM](#)

JASMINE MARTIN, Staff, Senator David Wilson, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for SB 45.

[Original punctuation provided.]

**Sectional Analysis  
Senate Bill 45 v. U**

**"An act relating to insurance; relating to direct health care agreements; and relating to unfair trade practices."**

**Section 1: Adds a new section (.025 Direct health care agreements) to AS 21 (Insurance) .03 (Scope of Code). Section (a), page 1, line 5, through 10:** Allows a provider and a patient to enter into a direct health care agreement. This section also stipulates that Medicaid recipients under AS 47.47 and those receiving assistance for catastrophic illness and chronic or acute medical conditions under AS 47.08 are not eligible to enter a DHCA.

**Section (b), page 1, line 11, through page 2, line 24:** Specifies what a DHCA must contain.

- (1)** It must describe the services a patient is entitled to for payment of a periodic fee.
- (2)** It must specify: the amount of the periodic fee, the length of period the fee covers, any additional fees the provider or business may charge.
- (3)** It must include contact information for a representative of the provider or business that is responsible for patient complaints and for patients request to amend the agreement.
- (4)** It must state that the agreement is not health insurance.
- (5)** Prominently state that the patient is not entitled to protections under Patient Protections Under Health Care Insurance Policies or Trade

Practices and Frauds (AS 21.07 and 21.36 respectively).

**Section (c), page 2, line 25, through page 3, line 1:** Specifies that a patient may terminate an agreement within 30 days. Requires any fees and payments, less payments made for services the health care provider has already performed that are not included in the periodic fee.

**Section (d), page 3, line 2 - 12:** Sets terms by which a health care provider may immediately terminate a DHCA.

**Section (e), page 3, line 13 - 15:** Specifies that a patient may terminate a DHCA immediately if a provider violates the terms of the agreement.

**Section (f), page 3, line 16 - 22:** Specifies that a provider may change the fee up to once a year, only with a written 45-day notice. A patient may cancel within those 45 days with no penalty.

**Section (g), page 3, line 23 - 26:** Specifies that a patient or provider can terminate an agreement with at least 30 days' notice.

**Section (h), page 3, line 27 - 30:** Specifies that a provider may charge a termination fee if the patient cancels under (c) or (g).

**Section (i), page 3, line 31, through page 4, line 4:** Specifies that a patient must pay the periodic fee, prorated through the date of termination if they cancel under (f) or (g).

**Section (j), page 4, line 5 - 7:** Specifies that the patient is billed by the provider at the end of the period covered by the fee.

**Section (k), page 4, line 8 - 13:** Allows an employer to pay the periodic fee on behalf of an employee. This does not mean the employer is a health insurance provider or business.

**Section (l), page 4, line 14 - 17:** Specifies that a DHCA is not subject to AS 21.07 (Patients Protections

Under Health Care Insurance Policies) or AS 21.36 (Trade Practices and Frauds) but is subject to other consumer protections and regulations.

**Section (m), page 4, line 18 - 30:** Specifies that a DHCA is not insurance and is not regulated as such.

**Section (n), page 4, line 31, through page 5, line 21:** Defines: direct health care agreement, health care business, health care insurance, health care insurer, health care provider, health care service, health insurance, health maintenance organization, and medical services corporation.

**Section 2: Adds a new section (.915 Direct health care agreements) to AS 45 (Trade and Commerce) .45 (Trade Practices).**

**Section (a), page 5, line 22 - 29:** Specifies that a provider may not decline to enter or terminate a DHCA solely based on a patient's status within a protected class.

**Section (b), page 5, line 30, through page 6, line 4:** Specifies that a provider may decline to enter an agreement if they are unable to provide the care the patient needs, or their practice is at capacity.

**Section (c), page 6, line 5 - 8:** Specifies that a provider may terminate a DHCA with a current patient based on their health status only if the providers is not able to provide the services the patient requires or in accordance with AS 21.03.025 (section 1 of this legislation).

**Section (d), page 5, line 9 - 21:** This is a "false advertising" clause. This section prohibits a provider from false advertising regarding a direct health care agreement. It specifically prohibits advertising these agreements as insurance or as an alternative to insurance.

**Section (e), page 5, line 22 - 28:** Defines: direct health care agreement, health care business, health care provider, health care service, and health insurance.

**Section 3: Adds a new paragraph to AS 45 (Trade and Commerce) .45 (Trade Practices) .471 (Unlawful acts and practices).**

**Section (58), page 6, line 29 - 30:** Adds violations of AS 45.45.915 (section 2 of this legislation) to the list of unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce that are declared to be unlawful.

[2:30:51 PM](#)

SENATOR MERRICK asked how many providers are interested in providing this service.

SENATOR WILSON answered that he did not have an exact number.

[2:31:36 PM](#)

SENATOR DUNBAR directed attention to the sectional analysis to Section H, cross-referenced with Section C and Section G. He asked about the need for allowing the provider to charge a termination fee. He expressed his understanding of Section C, that the patient must cover outstanding costs. Regarding Section G, he noted the equal ability of both parties to sever the relationship with a 30-day notice. He asked the reason to allow an additional termination fee.

MS. MARTIN replied that the only scenario in which the provider is allowed to charge a termination fee is when the patient initiates the cancellation.

SENATOR DUNBAR commented that patients would need to give a 30-day notice, potentially paying for a full month of service. He questioned the reason for allowing providers to charge for an additional month of service, on top of the initial termination fee.

MS. MARTIN responded that it might be useful to have the health care attorney Pete Diemer join the conversation.

[2:33:12 PM](#)

SENATOR WILSON added that many entities do the same to recover the cost. The termination fee allows time to recoup. The fee is agreed to when the parties sign the contract, so it does not come as a surprise. Hopefully it will be explained to individual patients.

[2:34:04 PM](#)

MS. MARTIN commented that SB 45 does not require a provider to charge a cancellation fee. The written agreement must contain any such fees so the patient would be aware of this before entering the agreement.

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SENATOR DUNBAR said that this is a unique situation in a highly regulated industry, where a large disparity exists between information and relative power between providers and their patients. He suggested that consumers could be protected by eliminating the possibility of a termination fee.

[2:35:26 PM](#)

CHAIR BJORKMAN segued to invited testimony.

[2:35:41 PM](#)

PETE DIEMER, Health Care Attorney, Clayton and Diemer, LLC, Anchorage, Alaska, gave invited testimony on SB 45. He clarified that SB 45 was not designed to replace insurance, but to be a safe harbor to providers and patients who desire this alternative arrangement. It is not designed to replace the existing robust regulation of health care providers under their professional licensing rules, but should work in concert with existing consumer protection rules under the Alaska Unfair Trade Practices and Consumer Protection Act. He directed the following answer to Senator Dunbar's question: the concept behind the cancellation fee is potentially to cover the administrative cost of onboarding; the cancellation fees are permissive, not required and cannot be charged were the provider to terminate the agreement.

[2:38:27 PM](#)

SENATOR MERRICK asked why a provider would choose to terminate a contract.

MR. DIEMER answered that the patient-physician relationship is governed by existing Alaska regulation which has adopted the American Medical Association 2016 Code of Ethics. It provides sideboards for the patient-physician relationship in the event of termination. Should the relationship become dysfunctional, this would be the mechanism that would allow a physician to terminate the relationship.

[2:40:08 PM](#)

SENATOR DUNBAR commented that Mr. Diemer's answer about the termination fee makes sense in terms of the administrative costs of onboarding someone. He noted that subsection (h) allows a

termination fee in both the onboarding with subsection (c), as well as in subsection (g), which covers the broader provision for the patient terminating the relationship. He asked, if the provider has already recovered their administrative costs, if it would be harmful to the providers if this were limited to only subsection (c), not subsection (g). He expressed that he is trying to protect consumers so they are able to get out of these relationships in a way that isn't punitive. He prefers to avoid a gym membership style situation, in which a customer pays a monthly fee and does not get anything out of it. He asked Mr. Diemer whether that narrower amendment would be less harmful to providers.

MR. DIEMER deferred to the bill sponsor, but stated that in his view, elimination of the permissive cancellation fee within subsection (g) would not negatively alter the framework. It would provide greater patient protection. The upfront administrative costs are incurred early and that's what subsection (c) would be designed to address. Conceptually, he agreed that the administrative costs would already be covered should subsection (g) termination occur.

[2:42:52 PM](#)

CHAIR BJORKMAN asked how the relationship currently works between patients who don't have healthcare insurance and their health care provider.

MR. DIEMER replied that SB 45 is designed to work in conjunction with insurance. It would work particularly well with high deductible plans. If a patient does not have insurance today, their relationship with the provider is a fee for each service. The distinction with the direct health care agreement concept is that it allows a provider to offer a defined menu of services for a defined periodic fee. This allows a greater breadth of services at a typically much lower cost than a fee for service model.

[2:44:54 PM](#)

CHAIR BJORKMAN asked how patients who are seeking care know the difference between health care they are receiving and what would be covered by insurance.

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MR. DIEMER said it depends whether the patient has or does not have insurance. If the patient does not have insurance, then there is no insurance to cover anything; in that scenario they would be "fee for service." In the direct healthcare agreement

scenario, there would be a menu of services for a defined periodic fee. If the patient has insurance, then the scope of the services provided by the direct health care provider are often different than the services that might be covered by the insurance. These work well with high deductibles. The patient might be \$7,000 away from accessing a service but those same services might be covered by that periodic fee, providing greater access to services before the insurance is triggered. Direct healthcare agreements are designed to increase patient access to care, particularly in the case of high deductible plans. In the insurance context, the deductible is designed to reduce access to care, and this is designed to bridge that gap.

[2:47:24 PM](#)

CHAIR BJORKMAN commented that he was struggling with whether the client with a DHCA can negotiate with their provider. He summarized that this bill proposes to charge an initiation fee for someone to have access to a medical provider, then there is a subscription fee to gain access to a deductible-free menu of services that can be adjusted according to whatever the provider and patient decide.

[2:49:11 PM](#)

MR. DIEMER disagreed with the characterization of this being a fee for access. He said this is a fee for a defined scope of services that may include a whole menu of items such as labs, wellness checks, and sick checks. This is not like concierge medicine where one pays for a fee for accelerated line pass, or access; this is a defined scope of services for a defined fee. There might be certain services that are outside a direct health care agreement, such as a specialty service, but it's not a fee for access.

CHAIR BJORKMAN said he was reading from a statement that says the patient pays a flat periodic fee, generally monthly, in exchange for routine visits and access to their health care provider.

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SENATOR WILSON responded that SB 45 is geared toward those who are underinsured. Most of the patients who have no insurance will be covered through other state programs. Those on Medicare or those who have high deductible plans can set up a plan based on a la carte services where everything is negotiable. This supplemental plan would not put those patients before or after other patients in terms of access to services. Some people never go to the doctor because they wait for catastrophic events to

occur and they can't afford to pay out-of-pocket before their insurance is available. With a direct health care agreement, the patient knows the price ahead of time so it could help increase access.

CHAIR BJORKMAN asked whether someone's membership fee goes toward their deductible for their insurance policy.

SENATOR WILSON answered no because this is not insurance.

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SENATOR DUNBAR commented that in the prior committee of referral, there was a reference that the fees are often close to \$100. He sought clarification on how a provider makes money at \$100 per month. An a la carte menu implies that a patient is purchasing services as needed, but the bill describes a membership fee. He asked if member patients have access to a certain number of appointments, or if it is unlimited.

SENATOR WILSON replied that \$100 was the average national fee for states that already practice direct healthcare or DHCA agreements. There are many different health care specialties and health care providers so it is going to be different for each health care provider. One's direct healthcare agreement could have a set price for basic wellness checks, but this might be the set price per Xray; it depends on the agreement and how complicated or simple it might be. It is up to the individual providers to set those agreements.

[2:55:29 PM](#)

MS. MARTIN commented that being able to charge low fees is an example of how much money and time is being wasted on the bureaucracy of billing different insurances.

SENATOR DUNBAR agreed that there is a lot of bureaucracy in the health insurance system, especially in Alaska where costs are so high. He is still concerned that there would be a mismatch between what consumers are going to expect from SB 45 and what is going to be provided if fees are that low, especially in medical services where there is such an asymmetry of information between consumers and medical providers. Maybe a consumer thought something was covered, but the thing they needed doesn't count. He expressed that he is struggling with how these economics would play out in Alaska.

[2:56:59 PM](#)

[The following testimony is garbled and some is indiscernible.]

DR. JOSH UMBEHR, Family Physician, Atlas MD, Wichita, Kansas, gave invited testimony on SB 45. He said that he has been a direct primary care physician for 13 years and is one of the creators of the movement. He opined that the bill has far more language than necessary. Most states have far less regulation because direct primary care is in a separate class than other physicians. This practice falls under all standard state rules and AMA guidelines. To the Senator's point about cost effectiveness, he said his clinic charges \$10 per month in fees.

[The remainder of the testimony is indiscernible].

[2:58:43 PM](#)

SENATOR WILSON agreed with Dr. Umbehr's comments about prices. Denials Management LLC returns a lot of claims to the providers which takes staff time to process; it can cost hundreds of thousands of dollars per year to process denials for just one small health clinic. Cutting out the middle man and implementing direct health care agreements will help Alaska get to a better cost of care.

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SENATOR DUNBAR asked Dr. Umbher what his patients get for the \$10 per month fee.

DR. UMBHER explained that the per month fee is \$10 for children aged 0-19, \$15.75-\$100 per month for adults based on age for services such as: unlimited home visits, office visits, tele-medicine visits, no co-pays, any procedure free of charge, biopsies, injections, ultrasounds, casting, splinting, medication and labs in house. The total comes out to about a 95 percent savings. It will vary by location due to the cost of living but is a viable model to drastically reduce the cost of care which can help small businesses decrease the cost of insurance.

SENATOR DUNBAR asked Dr. Umbher how he earns money and whether he is subsidized because \$10 per month would not seem to cover costs.

DR. UMBHER answered that it has proven to be profitable, growing by about 20-30 clinics per month. Charging \$50 per patient per month averaged across all ages, equals \$360,000 per year. There is one nurse for every two doctors.

[3:03:36 PM](#)

CHAIR BJORKMAN held SB 45 in committee.

3:04:08 PM

There being no further business to come before the committee, Chair Bjorkman adjourned the Senate Labor and Commerce Standing Committee meeting at 3:04 p.m.