

SENATE BILL NO. 197

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR HUGHES

Introduced: 2/16/22

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

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

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

4 *** Section 1.** AS 18.23 is amended by adding a new section to read:

5 **Article 5. Direct Health Care Agreements.**

6 **Sec. 18.23.500. Direct health care agreements.** (a) A direct health care
7 agreement is a written health care agreement between a health care provider and a
8 government entity, an individual patient, or the employer of a patient to provide health
9 care services in exchange for payment of an annual fee. The health care provider shall
10 disclose the services to be provided under the agreement to the patient and to the
11 person paying the fee. The health care provider may not assess charges or receive
12 compensation other than the annual fee for health care services and additional fees
13 specified in the agreement. However, a patient may submit a health care insurance
14 claim and the health care provider may assess charges or receive compensation for

1 health care services not included in the agreement. A direct health care agreement
2 must

3 (1) describe the health care services to be provided by the health care
4 provider;

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

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

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

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

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

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

19 (B) may not be based solely on the patient's health status or
20 sex.

21 (b) A direct health care agreement between a health care provider and a
22 patient must allow a patient to terminate the agreement in writing within 30 days after
23 entering into the agreement. If a patient terminates an agreement under this subsection,
24 the provider shall, not later than 30 days after the patient terminates the agreement,
25 refund to the patient payments made under the agreement, less payments made for
26 services the provider has already performed. The provider may charge a nominal
27 termination fee for termination of an agreement under this subsection.

28 (c) A direct health care agreement between a health care provider and a patient
29 must allow a party to terminate the agreement in writing after at least 30 days' notice
30 and in accordance with the agreement. The agreement may provide for a refund, a
31 nominal termination penalty, or a nominal termination fee for termination of an

1 agreement under this subsection.

2 (d) A direct health care agreement between a health care provider and a
3 government entity or the employer of a patient may be terminated in accordance with
4 the agreement. An agreement may provide for a refund, a nominal termination penalty,
5 or a nominal termination fee.

6 (e) The parties to a direct health care agreement may modify or renew the
7 agreement by written agreement of the parties and in a manner consistent with this
8 section. A health care provider may not change the annual fee under the agreement
9 more than once a year, and shall provide at least 45 days' written notice of a change in
10 the annual fee.

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

15 (g) A person may not make, publish, or disseminate an assertion,
16 representation, or statement with respect to the business of direct health care
17 agreements, or with respect to a person in the conduct of the person's direct health care
18 agreement business, that is untrue, deceptive, or misleading, and may not

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

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

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

25 (h) Offering or executing a direct health care agreement does not constitute
26 engaging in the business of insurance or underwriting in this state, and a direct health
27 care agreement and health care services provided under a direct health care agreement
28 are exempt from regulation by the division of insurance, Department of Commerce,
29 Community, and Economic Development. A health care provider is not a health
30 maintenance organization, insurer, or insurance producer by virtue of the offering or
31 execution of a direct health care agreement or the provision of health care services

1 under a direct health care agreement. A certificate of authority or license to market,
 2 sell, or offer to sell a direct health care agreement or health care services under a direct
 3 health care agreement is not required to offer or execute a direct health care agreement
 4 or provide health care services under a direct health care agreement.

5 (i) In this section,

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

9 (2) "health care service" means a health care service or procedure,
 10 other than a health care service or procedure that is immediately necessary to prevent
 11 the death or serious impairment of the health of the patient, that is provided in person
 12 or remotely by telemedicine or other means by a health care provider for the care,
 13 prevention, diagnosis, or treatment of a physical or mental illness, health condition,
 14 disease, or injury.

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

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

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

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

31 (2) agrees to provide to the patient the level or type of care the patient

1 requires.

2 (c) In this section,

3 (1) "direct health care agreement" means an agreement described in
4 AS 18.23.500;

5 (2) "health care provider" has the meaning given in AS 18.23.500.

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

7 (58) violating AS 18.23.500 (direct health care agreements);

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