

CS FOR SENATE BILL NO. 45(L&C) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Amended: 5/10/23

Offered: 4/21/23

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; relating to the**
2 **duties of the director of the division of insurance in the Department of Commerce,**
3 **Community, and Economic Development; and providing for an effective date."**

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. Health care services provided under a direct health care
9 agreement are limited to the type of health care services that a primary care provider
10 may provide to a patient. A patient is not eligible to enter into a direct health care
11 agreement under this section if the patient is eligible to receive assistance under
12 AS 47.07 (Medical Assistance for Needy Persons) or AS 47.08 (Assistance for
13 Catastrophic Illness and Chronic or Acute Medical Conditions).

14 (b) To be eligible to enter into a direct health care agreement under this

1 section, a health care provider or health care business must

2 (1) accept new patients who receive assistance under AS 47.07
3 (Medical Assistance for Needy Persons) or AS 47.08 (Assistance for Catastrophic
4 Illness and Chronic or Acute Medical Conditions) or who are enrolled in the Medicare
5 program; or

6 (2) maintain a practice in which 20 percent or more of the patients

7 (A) are eligible to receive assistance under AS 47.07 or
8 AS 47.08;

9 (B) are enrolled in the Medicare program; or

10 (C) do not have health insurance.

11 (c) A direct health care agreement must

12 (1) describe the health care services that the health care provider or
13 health care business makes available to the patient in exchange for payment of a
14 periodic fee and each location at which the health care services are available;

15 (2) specify

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

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

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

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

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

27 and

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

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

4 (d) The amount of the periodic fee may not be based solely on the patient's
5 health status or sex.

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

12 (f) A health care provider or health care business may decline to enter into a
13 direct health care agreement with a new patient if the health care provider or health
14 care business

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

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

18 (g) A health care provider or health care business may terminate a direct
19 health care agreement with an existing patient based on the patient's health status only
20 if the health care provider is unable to provide to the patient the health care services
21 the patient requires or in accordance with this section.

22 (h) A patient or the representative of a patient may terminate a direct health
23 care agreement in writing within 30 days after entering into the agreement. If a patient
24 or representative terminates an agreement under this subsection, the health care
25 provider or health care business shall, not later than 30 days after the patient or
26 representative terminates the agreement, refund to the patient or representative
27 payments made under the agreement, less payments made for services the health care
28 provider or health care business has already performed that are not included in the
29 periodic fee.

30 (i) A health care provider or health care business may immediately terminate a
31 direct health care agreement if

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

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

8 (3) a patient or the representative of a patient breaches the terms of the
9 agreement.

10 (j) A patient or the representative of a patient may immediately terminate a
11 direct health care agreement if a health care provider or a health care business
12 breaches the terms of the agreement.

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

20 (l) Except as otherwise provided in this section, a health care provider, a
21 health care business, a patient, or the representative of a patient may terminate a direct
22 health care agreement for any reason in writing after at least 30 days' notice.

23 (m) A health care provider or health care business may charge a termination
24 fee only for termination of an agreement by a patient or the representative of a patient
25 under (h) of this section. The termination fee may not exceed an amount equal to one
26 month's cost of the periodic fee.

27 (n) Upon termination of an agreement under (k) or (l) of this section, the
28 patient shall pay the health care provider or health care business the periodic fee,
29 prorated through the date of termination of the agreement, and any additional fees for
30 services the health care provider or health care business has already performed that are
31 not included in the periodic fee.

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

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

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

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

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

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

1 to health insurance;

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

3 (s) The director shall adopt regulations regulating direct health care
4 agreements that are consistent with this section. In addition to any other penalty
5 provided by law, if the director determines under AS 21.06.170 - 21.06.240 that a
6 health care provider or health care business has violated a provision of this section, the
7 director may

8 (1) impose

9 (A) a civil penalty of not more than \$10,000 for each violation;

10 or

11 (B) if the director determines that the person wilfully violated
12 the provisions of this section, a civil penalty of not more than \$25,000 for each
13 violation;

14 (2) prohibit the health care provider or health care business from
15 entering into or renewing a direct health care agreement; and

16 (3) suspend or revoke the business registration of a health care
17 provider or health care business for repeat violations.

18 (t) An order issued by the director that levies a civil penalty must specify the
19 period within which the civil penalty must be fully paid. The period may not be less
20 than 15 days or more than one year after the date of the order.

21 (u) In this section,

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

25 (2) "health care business" means a business licensed by the state that is
26 entirely owned by physicians licensed under AS 08.64 who have established residency
27 in the state under AS 01.10.055;

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

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

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

31 (6) "health care service"

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

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

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

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

10 (9) "medical service corporation" has the meaning given in
11 AS 21.87.330;

12 (10) "primary care provider" has the meaning given in AS 21.07.250.

13 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION: REGULATIONS. The director of the division of insurance may adopt
16 regulations necessary to implement this Act. The regulations take effect under AS 44.62
17 (Administrative Procedure Act), but not before the effective date of the law implemented by
18 the regulation.

19 * **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).

20 * **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect January 1, 2024.