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

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/15/23
Referred: Rules

Sponsor(s): SENATORS WILSON, Hughes, Myers, Kaufman

A BILL

FOR AN ACT ENTITLED

"An Act relating to insurance; relating to direct health care agreements; relating to the duties of the director of the division of insurance in the Department of Commerce, Community, and Economic Development; and providing for an effective date."

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

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

Sec. 21.03.025. Direct health care agreements. (a) A health care provider or health care business and a patient or the representative of a patient may enter into a direct health care agreement. Health care services provided under a direct health care agreement are limited to the type of health care services that a primary care provider may provide to a patient. A patient is not eligible to enter into a direct health care agreement under this section if the patient is eligible to receive assistance under AS 47.07 (Medical Assistance for Needy Persons) or AS 47.08 (Assistance for Catastrophic Illness and Chronic or Acute Medical Conditions).

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

section, a health care provider or health care business must

(1) accept new patients who are enrolled in the Medicare program; or

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

(A) are enrolled in the Medicare program; or

(B) do not have health insurance.

(c) A direct health care agreement must

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

(2) specify

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

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

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

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

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

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

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

(e) A health care provider or health care business may not decline to enter into a direct health care agreement with a new patient or terminate a direct health care

agreement with an existing patient solely because of the patient's race, religion, color, national origin, age, sex, physical or mental disability, marital status, change in marital status, pregnancy, parenthood, or any other characteristic of a class of persons protected by a state law that prohibits discrimination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) A patient's employer may pay the periodic fee and additional fees the patient owes a health care provider or health care business under a direct health care agreement. A payment by the employer under this subsection does not constitute engaging in the business of insurance or underwriting in this state, and the employer is

not an insurer, a health maintenance organization, a health care insurer, or a medical service corporation by virtue of the payment.

(q) A direct health care agreement and a health care provider or health care business providing health care services under a direct health care agreement are subject to AS 21.36 (Trade Practices and Frauds) to the extent applicable and when not in conflict with the express provisions of this section.

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

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

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

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

(s) The director shall adopt regulations regulating direct health care agreements that are consistent with this section.

(t) Except as provided in this section, a health care provider or health care business that offers or executes a direct health care agreement that complies with this section is not otherwise subject to this title.

(u) In this section,

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

(2) "health care business" means a business that is entirely owned by health care providers;

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

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

(5) "health care service"

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

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

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

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

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

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

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

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

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

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