- 1 SB94
- 2 180350-2
- 3 By Senator Orr
- 4 RFD: Health and Human Services
- 5 First Read: 07-FEB-17

| Τ  | 180350-2:n | 1:01/23/201/:JET/MIC LRS2016-1925R1                 |
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| 8  | SYNOPSIS:  | This bill would define an agreement between         |
| 9  |            | a physician or dentist and a patient to provide     |
| 10 |            | health care or dental services to the patient for   |
| 11 |            | an agreed upon fee and time period as a physician   |
| 12 |            | agreement or dentist agreement and would provide    |
| 13 |            | that the agreement is not insurance.                |
| 14 |            | This bill would provide that a physician or         |
| 15 |            | dentist offering, marketing, selling, or entering   |
| 16 |            | into physician or dentist agreements is not         |
| 17 |            | required to obtain a license or certificate of      |
| 18 |            | authority from any state entity and would require   |
| 19 |            | that the agreement meet certain requirements.       |
| 20 |            | This bill would also establish minimum              |
| 21 |            | requirements for physician agreements and dentist   |
| 22 |            | agreements and would provide for the discontinuance |
| 23 |            | of care for a patient under an agreement under      |
| 24 |            | certain conditions.                                 |
| 25 |            |   |
| 26 |            | A BILL  |
| 27 |            | TO BE ENTITLED                                      |

| - | 1                  | 7/ 1/T      | ACT          |
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Relating to health care; to provide that a physician agreement or dentist agreement, as defined, is not to be regulated as insurance; to provide that a physician or dentist offering, marketing, selling, or entering into a physician or dentist agreement is not required to obtain a license or certificate of authority; to require that a physician agreement and dentist agreement meet certain requirements; to provide penalties for physicians and dentists who breach an agreement; and to provide for the discontinuance of care for a patient under an agreement under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Physicians and Dentists Direct Pay Act.

Section 2. (a) For the purposes of this section, the following words shall have the following meanings:

- (1) DENTIST. A person licensed to practice dentistry in this state.
- (2) DENTIST AGREEMENT or AGREEMENT. A contract between a dentist and a patient or his or her legal representative in which the dentist or the dentist's medical practice agrees to provide dental services to the patient for an agreed upon fee and period of time.
- (3) DENTIST PRACTICE. A dentist or dentist's medical practice that charges a periodic fee for dental services, does not bill any third party on a fee for service basis, and whose

- per visit charge is less than the monthly equivalent of the periodic fee.
- 3 (4) PHYSICIAN. A person licensed to practice 4 medicine in this state.

- (5) PHYSICIAN AGREEMENT or AGREEMENT. A contract between a physician and a patient or his or her legal representative in which the physician or the physician's medical practice agrees to provide health care services to the patient for an agreed upon fee and period of time.
- (6) PHYSICIAN PRACTICE. A physician or physician's medical practice that charges a periodic fee for services, does not bill any third party on a fee for service basis, and whose per visit charge is less than the monthly equivalent of the periodic fee.
- (b) A physician agreement or dentist agreement is not insurance, may not be deemed an insurance arrangement, and is not subject to state insurance laws, provided that the direct financial relationship with a patient does not exceed an annual fee of the following:
- (1) For physicians: Six thousand dollars (\$6,000), adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor.
- (2) For dentists: Three thousand dollars (\$3,000), adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor.

- 1 (c) A patient or legal representative shall not
  2 forfeit any insurance benefits or Medicare benefits by
  3 purchasing medical services or products outside the system.
  - (d) A physician or dentist offering, marketing, selling, or entering into a physician agreement or dentist agreement may not be required to obtain a certificate of authority or license other than to maintain a current license to practice medicine or dentistry in this state.
  - (e) A physician agreement or dentist agreement is not a discount medical plan.
  - (f) To be considered a physician agreement or dentist agreement for the purposes of this section, the agreement shall satisfy all of the following:
    - (1) Be in writing.

- (2) Be signed by a physician or dentist, or agent of the physician or dentist, and the patient or his or her legal representative.
- (3) Allow either party to terminate the agreement upon written notice of at least 30 days to the other party.
- (4) Describe the scope of health care or dental services that are covered by the periodic fee.
- (5) Specify the periodic fee and any additional fees outside of the periodic fee for ongoing health care or dental services.
- (6) Specify the duration of the agreement and any automatic renewal periods and require that no more than 12 months of the periodic fee be paid in advance.

- 1 (7) Prominently state in writing that is 2 conspicuously visible and in bold font all of the following:
- a. The agreement does not constitute health insurance of the laws of this state.

- b. An uninsured patient that enters into an agreement may still be subject to tax penalties under the Patient Protection and Affordable Care Act, Public Law 111-148, for failing to obtain insurance.
  - c. Patients insured by health insurance plans that are compliant with the Patient Protection and Affordable Care Act already have coverage for certain preventive care benefits at no coast to the patient.
  - d. Payments made by a patient for services rendered under a physician agreement or dentist agreement may not count toward the patient's health insurance deductibles and maximum out-of-pocket expenses.
  - e. A patient is encouraged to consult with the patient's health insurance plan before entering into the agreement and receiving care.
  - f. A physician who breaches the agreement may be liable for damages and may be subject to professional discipline by the appropriate professional licensing board.
- (8) Provide that, upon termination of the agreement by the patient, all unearned fees are to be returned to the patient.
- (g) A physician or dentist providing health care or dental services under a physician agreement or dentist

agreement may decline to accept a patient if, in the

physician's or dentist's opinion, the patient's medical

condition is such that the provider is unable to provide the

appropriate level and type of health care or dental services

the patient requires. The physician or dentist may discontinue

care for patients under the physician agreement or dental

agreement under any of the following conditions:

- (1) The patient fails to pay the periodic fee.
- (2) The patient has performed an act of fraud.
- (3) The patient repeatedly fails to adhere to the recommended treatment plan.
- (4) The patient is abusive and presents an emotional or physical danger to the staff or other patients of the physician practice or dentist practice.
- (5) The physician or dentist or the physician's or dentist's medical practice discontinues operation as a physician practice or dentist practice.
- (h) A physician or dentist who breaches an agreement may be liable for damages and subject to discipline by the Alabama Board of Medical Examiners or the Board of Dental Examiners of Alabama.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.