

Alaska State Legislature

REPRESENTATIVE
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Joint Armed Services Committee



During Session:
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House of Representatives

MEMORANDUM

To: House Community and Regional Affairs Committee Members
From: Michael Paschall, Aide to Rep. Eric Feige
Date: February 29, 2012
Re: Questions concerning HB 219

During the Community and Regional Affairs Committee hearing on Feb. 16, you heard that AS 18.08.082 required those that provide emergency medical services are required to be licensed by the State of Alaska. There is no such provision in Title 18. AS 18.08.084 states, “(b) A person, organization, or government agency **may not represent itself as** an emergency medical service or ambulance service **certified by the state unless** the person, organization, or government agency **is certified as an emergency medical service** under AS 18.08.082” (emphasis added).

It is easy to misinterpret this statute, but if you read all of AS 18.08.082 and 18.08.084, you will see that the intention of the statute pertains primarily to advanced life support by emergency medical providers and other higher levels of care. It does provide that the state may certify ambulance services, but does not require certification. The state does certify emergency medical services and most are certified, but that is not the issue attempting to be addressed in the bill before the committee.

You also heard that AS 21.87.010 already provides almost the identical variance to that offered in this bill. AS 21.87.010 does provide a similar variance as sought by this bill, but the purpose of this bill is to provide an easy method for an organization to solicit funds from community members to support ongoing operations by providing an inducement to community members to contribute.

Under AS 21.87.010 an ambulance or emergency medical service certified by the state may be exempted from the chapter, if they are a municipality, nonprofit medical service corporation, or a nonprofit association. A gap arises if a nonprofit corporation is not a medical service corporation, which is most of the non-municipal ambulance services in Alaska and the services that would benefit most from this

legislation. In many cases emergency medical services are provided under the auspices of the local fire department and are often under contract with a municipality, but not a part of the municipality.

Under the provision in law, a new medical service corporation must also have, at a minimum, \$100,000 available, and be certified by the state, both provisions which reduce the ability of a small community to start with basic medical transport – one of the groups we were hoping to help.

I provide this information to you in advance of Thursday's hearing to give you an opportunity to review the attached statutes and, if you desire, present additional questions to be answered prior to or during the hearing. Feel free to call.

Sec. 18.08.075. Authority of emergency medical technician.

(a) An emergency medical technician who responds to an emergency with an ambulance service or first responder service, who has in the technician's possession a current emergency medical technician identification card, and who provides emergency medical care or other emergency medical service, has the authority to

- (1) control and direct activities at the accident site or emergency until the arrival of law enforcement personnel;
- (2) order a person other than the owner to leave a building or place in the vicinity of the accident or other emergency for the purpose of protecting the person from injury;
- (3) temporarily block a public highway, street, or private right-of-way while at the scene of an accident, illness, or emergency;
- (4) trespass upon property at or near the scene of an accident, illness, or emergency at any time of day or night;
- (5) enter a building, including a private dwelling, or premises where a report of an injury or illness has taken place or where there is a reasonable cause to believe an individual has been injured or is ill to render emergency medical care; and
- (6) direct the removal or destruction of a motor vehicle or other thing that the emergency medical technician determines is necessary to prevent further harm to injured or ill individuals.

(b) A person who knowingly refuses to comply with an order of an emergency medical technician authorized under (a) of this section is, upon conviction, guilty of a class B misdemeanor. In this subsection, "knowingly" has the meaning given in AS 11.81.900(a).

History -

(Sec. 1 ch 84 SLA 1997)

Sec. 18.08.080. Regulations.

(a) The department shall adopt, with the concurrence of the Department of Public Safety, regulations establishing standards and procedures for the issuance, renewal, reissuance, revocation, and suspension of certificates required under AS 18.08.084, as well as other regulations necessary to carry out the purposes of this chapter.

(b) The department may charge fees set by regulation for the certification of individuals and organizations under this chapter.

History -

(Sec. 1 ch 100 SLA 1977; am Sec. 1 ch 78 SLA 1978; am Sec. 13 ch 36 SLA 1993)

AG Opinions -

This section gives the department authority to restrict the use of grant funds and grant income of all emergency medical services grants administered by the department, whether or not they are subject to AS 37.05.321, for the provision and coordination of emergency medical services, and to prohibit the use of grant funds and grant income for "lobbying," "influencing legislative action," "legislative monitoring," or any other purpose not directly related to the provision of those services. Such restrictions must be imposed by regulation. January 15, 1986, Op. Att'y Gen.

Sec. 18.08.082. Issuance of certificates; designations.

(a) The department shall prescribe by regulation a course of training or other requirements prerequisite to the issuance of certificates that provide for the following:

(1) certification of a person who meets the training and other requirements as an emergency medical technician, emergency medical technician instructor, or emergency medical dispatcher;

(2) authorization for an emergency medical technician certified under this chapter to provide under the written or oral direction of a physician the advanced life support services enumerated on the certificate or enumerated on a written document filed with the department by the technician's medical director and approved by the department under its regulations;

(3) certification that a person, organization, or government agency that provides an emergency medical service, conducts a training course for a mobile intensive care paramedic, or represents itself as a trauma center meets the minimum standards prescribed by the department for that service, course, or designation; and

(4) authorization for an emergency medical service certified under this chapter to provide under the written or oral direction of a physician the advanced life support services enumerated on the certificate or enumerated on a written document filed with the department by the medical director for the emergency medical service and approved by the department under its regulations.

(b) The department is the central certifying agency for personnel certified under (a)(1) and (2) of this section and under regulations adopted under AS 18.08.080.

(c) The commissioner shall establish special designations in regulation for varying levels of trauma care provided by any certified trauma center in the state that shall be used to set compensation eligibility and amounts under AS 18.08.085. The designations shall be based on nationally recognized standards and procedures.

History -

(Sec. 2 ch 78 SLA 1978; am Sec. 14 ch 36 SLA 1993; am Sec. 1 ch 98 SLA 2010)

Cross References -

For regulation of mobile intensive care paramedics and physician assistants, see AS 08.64.107.

Amendment Notes -

The 2010 amendment, effective June 22, 2010, added (c).

Editors Notes -

Section 28(c), ch. 36, SLA 1993 provides that notwithstanding the amendments to AS 08.64.380(4) and (b) of this section by ch. 36, "the license of a mobile intensive care paramedic issued by the State Medical Board before August 25, 1993 remains valid even though the licensee has not completed a certified training course as required under those sections."

Sec. 18.08.084. Certificate required.

(a) One may not represent oneself, nor may an agency or business represent an agent or employee of that agency or business, as an emergency medical dispatcher, emergency medical technician, or emergency medical technician instructor certified by the state unless the person represented is certified for that occupation under AS 18.08.082.

(b) A person, organization, or government agency may not represent itself as an emergency medical service or ambulance service certified by the state unless the person, organization, or government agency is certified as an emergency medical service under AS 18.08.082.

(c) A person may not provide, offer, or advertise to provide advanced life support services outside a hospital unless authorized by law.

(d) A person, organization, or government agency that provides, offers, or advertises to provide an emergency medical service may not provide advanced life support services unless authorized under AS 18.08.082.

(e) A hospital, clinic, or other entity may not represent itself as being a trauma center unless it is certified under AS 18.08.082 as meeting the criteria established for a trauma center.

(f) A person, organization, or government agency may not offer or conduct a training course that is represented as a course for mobile intensive care paramedics unless the person, organization, or agency is certified under AS 18.08.082 to offer or conduct that course.

History -

(Sec. 2 ch 78 SLA 1978; am Sec. 15, 16 ch 36 SLA 1993)

Sec. 18.08.085. Trauma care fund; creation.

(a) The trauma care fund is created. The purpose of the fund is to compensate certified trauma centers in the state that receive a special designation under AS 18.08.082(c) and that achieve or maintain the highest appropriate level of trauma care designation.

(b) The fund consists of money appropriated to it by the legislature, including donations, recoveries of or reimbursements for awards made from the fund, income from the fund, and other program receipts from activities under this chapter. Appropriations to the fund do not lapse.

(c) The commissioner shall administer the fund in accordance with the provisions of this chapter. The commissioner shall spend money from the trauma care fund for the purpose established in (a) of this section.

(d) The commissioner shall establish compensation standards under this section. The standards must include funding priorities for trauma centers receiving a special designation under AS 18.08.082(c). The commissioner may seek the advice of a special committee for review of statewide trauma care and compensation standards.

(e) The commissioner may not provide more than 25 percent of the total assets, including earnings, of the fund in a fiscal year to one trauma center.

History -

(Sec. 2 ch 98 SLA 2010)

Effective Date Notes -

Section 3, ch. 98, SLA 2010 makes this section effective June 22, 2010.

Sec. 18.08.086. Immunity from liability.

(a) A person certified under AS 18.08.082 who administers emergency medical services to an injured or sick person, a person or public agency that employs, sponsors, directs, or controls the activities of persons certified under AS 18.08.082 who administer emergency medical services to an injured or sick person, or a health care professional or emergency medical dispatcher acting within the scope of the person's certification who directs or advises a person to administer emergency medical services to an injured or sick person is not liable for civil damages as a result of an act or omission in administering those services or giving that advice or those directions if the administering, advising, and

directing are done in good faith and the injured or sick person reasonably seems to be in immediate danger of serious harm or death. This subsection does not preclude liability for civil damages that are the proximate result of gross negligence or intentional misconduct, nor preclude imposition of liability on a person or public agency that employs, sponsors, directs, or controls the activities of persons certified under AS 18.08.082 if the act or omission is a proximate result of a breach of duty to act created under this chapter. For the purposes of this subsection, "gross negligence" means reckless, wilful, or wanton misconduct.

(b) A physician who in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to another hospital is not liable for civil damages as a result of arranging, requesting, recommending, or initiating the transfer if

(1) in the exercise of that degree of knowledge or skill possessed, or that degree of care ordinarily exercised by physicians practicing the same specialty in the same or similar communities to that in which the physician is practicing, the physician determines that treatment of the patient's medical condition is beyond the capability of the transferring hospital or the medical community in which the hospital is located;

(2) the physician has confirmed that the receiving facility is more capable of treating the patient; and

(3) the physician has secured a prior agreement from the receiving facility to accept and render the necessary treatment to the patient.

(c) A registered nurse or licensed practical nurse who escorts a patient in a means of conveyance not equipped as an ambulance is not liable for civil damages as a result of an act or omission in administering patient care services, if done in good faith and if the life of the injured or sick person is in danger. This subsection does not preclude liability for civil damages that are the result of gross negligence or intentional misconduct.

(d) A person certified as an emergency medical technician instructor, a person or entity certified to conduct a training course for mobile intensive care paramedics, and a person who employs or contracts with a certified emergency medical technician instructor or with a person or entity certified to conduct a training course for mobile intensive care paramedics is not liable for civil damages as a result of a negligent act or omission during a training course that injures the person or property of a person participating in the training course.

History -

(Sec. 2 ch 78 SLA 1978; am Sec. 2 ch 122 SLA 1986; am Sec. 17, 18 ch 36 SLA 1993)

Cross References -

For liability for services rendered by a physician-trained mobile intensive care paramedic, see AS 08.64.366.

For civil liability for emergency aid, see AS 09.65.090.

Collateral Refs -

Hospital's liability as to diagnosis and care of patients brought to emergency ward. 72 ALR2d 396.

Application of rule of strict liability in tort to person or entity rendering medical services. 100 ALR3d 1205.

Liability for injury or death allegedly caused by activities of hospital "rescue team". 64 ALR4th 1200.

Liability of operator of ambulance service for personal injuries to person being transported. 68 ALR4th 14.

Chapter 21.87. HOSPITAL AND MEDICAL SERVICE CORPORATIONS

Collateral Refs -

44 Am. Jur. 2d, Insurance, Sec. 15 et seq.; 61 Am. Jur. 2d, Physicians, Surgeons, and Other Healers, Sec. 118.

Sec. 21.87.010. Applicability.

(a) This chapter applies to every individual, person, firm, corporation, association, or organization of any kind hereafter engaging or purporting to engage in the provision of all or part of a health care service as defined in AS 21.87.330, for its subscribers in exchange for periodic prepayments in identifiable amount by or as to the subscribers.

(b) This chapter does not apply to

(1) insurers or fraternal benefit societies authorized to transact the kind of insurance involved under other chapters of this title;

(2) fraternal and other organizations exempted from AS 21.24;

(3) health care services provided by an employer to employees and their dependents, with or without contribution to the costs thereof by the employees, through health care service facilities owned, employed, or controlled by the employers;

(4) infrequent instances of prepayment by or for the patient direct to the physician or hospital for specific services thereafter rendered to the patient by the physician or hospital;

(5) ambulance or emergency medical services provided by a municipality, nonprofit medical service corporation, or nonprofit association if the person providing the services is certified under AS 18.08.082.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 1 ch 65 SLA 1990)

Sec. 21.87.020. Purpose and interpretation.

(a) It is the purpose of this chapter to regulate in the public interest the formation and operation of prepaid health care service organizations, in order that the services may be made available upon a basis of fair and equitable contracts through state-licensed nonprofit organizations meeting reasonable standards as to administration, reserves, and financial soundness.

(b) This chapter shall be liberally interpreted to effectuate the purpose declared in (a) of this section.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.030. Provisions exclusive.

A provision of this title does not apply to a health care service corporation unless contained or referred to in this chapter.

History -

(Sec. 1 ch 120 SLA 1966)

Decisions -

Stated in *Premera Blue Cross v. State*, 171 P.3d 1110 (Alaska 2007).

Sec. 21.87.040. Incorporation and certificate of authority required.

A person otherwise subject to this chapter may not engage or purport to engage in the provision of any part or all of a health care service for its subscribers in exchange for periodic prepayments in identifiable amount unless it is a service corporation incorporated under the laws of this state, and currently authorized as such a service corporation under a certificate of authority issued by the director under this chapter.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.050. Incorporation, approval of articles and amendments.

(a) A service corporation shall be formed as a nonprofit, nonstock medical service corporation, or hospital service corporation, or a combination medical and hospital service corporation, consistent with the applicable requirements of this chapter under the statutes of this state governing the formation of nonprofit, nonstock corporations in general.

(b) Before the articles of incorporation of the proposed corporation formed after July 1, 1966, are filed with the commissioner of commerce, community, and economic development, they shall be submitted to the director, and the commissioner may not file the articles unless the director's approval is endorsed thereon. The director shall approve the articles unless the director finds that they do not comply with law. If not approved, the director shall return the proposed articles of incorporation to the incorporators together with a written statement of particulars of the reasons for nonapproval.

(c) An amendment of the articles of incorporation of a service corporation may not be filed with the commissioner unless it is first submitted to and approved by the director, and bears the director's approval endorsed on it. The director shall approve the amendment unless the director finds that it was not lawfully adopted or that the articles of incorporation as amended would be unlawful. If not approved, the director shall return the proposed amendment to the corporation together with a written statement of the particulars of the reasons for nonapproval.

History -

(Sec. 1 ch 120 SLA 1966)

Revisors Notes -

In 1999, "commissioner of commerce and economic development" was changed to "commissioner of community and economic development" in (b) of this section in accordance with Sec. 88, ch. 58, SLA 1999. In 2004, "commissioner of community and economic development" was changed to "commissioner of commerce, community, and economic development" in (b) of this section, in accordance with Sec. 3, ch. 47, SLA 2004.

Sec. 21.87.060. Name of corporation.

A service corporation may not have or use a corporate or business name that includes the words "insurance," "casualty," "surety," "health and accident," "mutual," or other terms descriptive of an insurer or insurance business. A service corporation may not have or use a name so similar to that of another corporation transacting business in this state when the service corporation was formed that it would tend to confuse or mislead the public.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.070. Qualifications for certificate of authority.

The director may not issue or permit to exist a certificate of authority to be or act as a service corporation to a corporation that does not fulfill the following qualifications:

- (1) it must be incorporated as provided in AS 21.87.050, as either a medical service corporation, or as a hospital service corporation, or as a combined medical and hospital service corporation;
- (2) it must intend to and actually conduct its business in good faith as a nonprofit corporation;
- (3) if a hospital service corporation, it must have in force at all times while so authorized, service agreements with participant hospitals located in the areas of the subscribers' residences, convenient as to location and sufficient as to capacity and facilities reasonably to furnish the hospital services provided or proposed to be provided by the corporation to its subscribers;
- (4) if a medical service corporation, it must have in force service agreements with participant providers located in the areas of the subscribers' residences convenient as to location and sufficient in numbers and facilities reasonably to furnish the medical and surgical services provided or proposed to be provided by the corporation to its subscribers;
- (5) if a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than payment for hospital or medical services, for a period of not less than the six months following the date of issuance of the certificate of authority, if issued, or \$100,000, whichever amount is greater;
- (6) it must fulfill all other applicable requirements of this chapter.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 3 ch 40 SLA 1981)

Sec. 21.87.080. Application for certificate of authority.

(a) Application for a certificate of authority to transact business as a service corporation shall be made to the director, on forms as prepared and furnished by the director and requiring the information relative to the applicant, its directors, officers, and affairs as the director may reasonably require consistent with this chapter.

(b) The application shall be accompanied by the following documents that are not already on file with the director:

- (1) one copy of the applicant's articles of incorporation and of all amendments, certified by the commissioner;
- (2) one copy of the applicant's bylaws, certified by its corporate secretary;
- (3) if a medical service corporation, a copy of each form of service agreement entered into or proposed to be entered into with participant providers, together with a list showing the name, residence and office addresses, and date of execution of the service agreement by each participant provider;
- (4) if a hospital service corporation, a copy of each service agreement entered into with participant hospitals certified by the applicant's corporate secretary;
- (5) a copy of each form of subscribers' contract proposed to be offered;

(6) a schedule of the rates proposed to be charged subscribers;

(7) a financial statement of the applicant as of a date not more than 30 days before the filing of the application, showing among other things the amount of working funds available to the applicant, the source of the funds, and accompanied by a copy of the agreement under which the funds were contributed to or provided for the applicant;

(8) a copy of any other relevant document reasonably requested by the director.

(c) At the time of filing the application the applicant shall pay to the director an application fee and a fee for issuance of the certificate of authority set under AS 21.06.250.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 4 ch 40 SLA 1981; am Sec. 26 ch 26 SLA 1985)

Sec. 21.87.090. Issuance or refusal of certificate of authority.

(a) If, after the application for certificate of authority is completed, the director finds that the applicant is fully qualified for a certificate of authority in accordance with this chapter, and that the service agreements, subscribers contracts, schedule of rates are in compliance with the applicable provisions of this chapter, the director shall issue to the applicant a certificate of authority as a medical service corporation or as a hospital service corporation, or as a combined medical and hospital service corporation, as the case may be.

(b) If the director does not so find, the director shall refuse to issue a certificate of authority and shall give the applicant written notice setting out the particulars of the reasons for the refusal, accompanied by return of the fee tendered for issuance of the certificate of authority.

(c) The director shall either issue or refuse to issue the certificate of authority within a reasonable time after the filing and completion of application.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.100. Continuance or expiration of certificate of authority.

(a) A certificate of authority issued to a service corporation shall continue in force as long as the corporation is entitled to it under this chapter, and until suspended or revoked by the director or terminated at the request of the corporation; subject, however, to continuance of the certificate by the corporation each year by

(1) payment, before June 30, of the continuation fee set under AS 21.06.250;

(2) filing by the insurer of its annual statement for the preceding calendar year as required under AS 21.87.240.

(b) If not continued by the service corporation, its certificate of authority shall expire at midnight on the June 30 following the failure of the insurer to continue it in force. The director shall promptly notify the insurer of the occurrence of a failure resulting in impending expiration of its certificate of authority.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 27 ch 26 SLA 1985)

Sec. 21.87.110. Suspension or revocation of certificate of authority.

(a) The director shall suspend or revoke the certificate of authority of a service corporation that the director finds, after a hearing, is no longer qualified under this chapter.

(b) The director may after a hearing, suspend or revoke the certificate of authority for a violation by the service corporation of a provision of this chapter for which mandatory suspension or revocation is not required under (a) of this section, or on an applicable ground set out in AS 21.09.140 and 21.09.150.

(c) A service corporation may not, while its certificate of authority is suspended or revoked, transact business as a service corporation other than that necessary and incidental to the discharge of its contracts and agreements outstanding on the day the suspension or revocation became effective. The corporation may not, after the revocation of its certificate of authority, solicit or issue new subscriber's contracts.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.120. Services and benefits that may be provided by medical service corporations.

(a) A medical service corporation shall have the right to provide to its subscribers part or all of the following services and benefits only:

(1) medical and surgical services furnished to the subscriber by participant providers;

(2) indemnity in reasonable amount with respect to medical and surgical services furnished to the subscriber by nonparticipant providers, but subject to AS 21.87.070(4);

(3) indemnity in reasonable amount with respect to hospital services furnished the subscriber while under the care and treatment of a participant provider or under the care and treatment of another provider upon referral by a participant provider;

(4) indemnity in reasonable amount with respect to appliances, prosthetics, and similar devices and replacements, and ambulance, x-ray, physiotherapy, and similar services.

(b) This section does not prohibit the corporation from acting as compensated servicing agent as to health care services to be provided by a public agency, or under agreements between other parties not solicited by the corporation.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 5 - 7 ch 40 SLA 1981)

Sec. 21.87.130. Services and benefits that may be provided by hospital service corporations.

(a) A hospital service corporation shall have the right to provide to its subscribers part or all of the following services and benefits only:

(1) hospital services furnished to the subscriber by participant hospitals;

(2) indemnity in a reasonable amount with respect to hospital services furnished to the subscriber by nonparticipant hospitals, but subject to AS 21.87.070(3);

(3) indemnity in a reasonable amount for other health care services, as defined in AS 21.87.330.

(b) This section does not prohibit the corporation from acting as compensated servicing agent as to health care services to be provided by a public agency, or under agreements between other parties not solicited by the corporation.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.140. Medical service agreements.

(a) A medical service corporation shall enter into service agreements with providers licensed by the state only.

(b) Each service agreement shall require the participant providers to furnish to subscribers of the service corporation the medical or surgical services, or both, that are, under the subscriber's contract, to be furnished by participant providers. This obligation to furnish the service, as provided for in the subscriber's contract, shall be a direct obligation of the participant providers to the subscribers as well as to the service corporation.

(c) Each service agreement shall further effectively provide in substance that

(1) the participant provider shall be compensated for services rendered to a subscriber in accordance with terms contained in the agreement or attached to and made a part of the agreement and that the participant provider may not request or receive from the service corporation compensation for the services that is not in accord with the terms;

(2) compensation for services may be prorated and settled under the circumstances and in the manner referred to in AS 21.87.300;

(3) if the participant provider withdraws from the agreement, the withdrawal may not be effective as to a subscriber's contract in force on the date of the withdrawal until the termination of the subscriber's contract or the next anniversary of the subscriber's contract, whichever date is the earlier.

(d) The proposed form of the service agreement shall be filed with the director and is subject to the approval of the director under AS 21.87.180.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 8 - 11 ch 40 SLA 1981; am Sec. 103 ch 81 SLA 1997)

Sec. 21.87.150. Hospital service agreements.

(a) A hospital service corporation shall enter into service agreements with hospitals approved or licensed by the state only.

(b) Each service agreement must require the participant hospital to furnish to subscribers of the service corporation the hospital services that are, under the subscriber's contract, to be furnished by participant hospitals; and this obligation to furnish the service, as provided for in the subscriber's contract, shall be a direct obligation of the participant hospitals to the subscribers as well as to the service corporation.

(c) Each service agreement must further effectively in substance provide that

(1) the participant hospitals shall be compensated for services rendered to a subscriber in accordance with terms contained in the agreement or attached to and made a part of the agreement and that the hospital may not request or receive from the service corporation compensation for the services that is not in accord with the terms;

(2) compensation for services may be prorated and settled under the circumstances and in the manner referred to in AS 21.87.300;

(3) if the participant hospital withdraws from the agreement, the withdrawal may not be effective as to a subscriber's contract in force on the date of the withdrawal until the termination of the subscriber's contract or the next anniversary of the subscriber's contract, whichever date is the earlier.

(d) The service corporation shall terminate the service agreement of a particular participant hospital, in addition to other bases of termination provided for in the agreement, if it is determined that the hospital has knowingly charged or attempted to charge the service corporation for a service not actually rendered, or has knowingly violated a material provision of the service agreement.

(e) The proposed form of a service agreement and of the standard riders and endorsements to it shall be filed with the director and are subject to the approval of the director under AS 21.87.180.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 104 ch 81 SLA 1997)

Sec. 21.87.160. Subscriber's contracts.

(a) Each subscriber's contract issued after July 1, 1966, by a service corporation constitutes a direct obligation of the participant providers or participant hospitals of the service corporation to render the medical or hospital services, as the case may be, as agreed to be rendered by the participants in the subscriber's contract.

(b) Each subscriber's contract or certificate must in adequate detail set out provisions from which can be readily determined

(1) the services to which the subscriber is entitled from participant providers or participant hospitals, as the case may be;

(2) the benefits, if any, to which the subscriber is entitled on an indemnity basis, consistent with AS 21.87.120, 21.87.130 and the other provisions of this chapter;

(3) the periodic subscription charge, rate, or fee payable by or to the subscriber; or, if not so expressed and the charge, rate, or fee is subject to change, the subscriber's contract must require that not less than 30 days' written notice of the new charge, rate, or fee shall be given to the subscriber or the remitting agent of the subscriber before the change is effective;

(4) the date when the respective services and benefits become available to the subscriber, date of expiration of the contract, and the terms, if any, under which the contract may be continued or renewed;

(5) all other terms and conditions of the agreement between the parties consistent with this chapter;

(6) that the subscriber's contract and riders and endorsements thereon or thereto, together with application therefor, if any, signed by the subscriber, and identification issued to the subscriber, constitutes the entire contract between the parties.

(c) A contract may not restrict the subscriber's right to free choice of provider or hospital, but must restrict benefits to be provided on a service basis to services rendered by participant providers and participant hospitals.

(d) All exceptions and exclusions in the contract shall be printed and otherwise set out as prominently as the services or benefits to which they apply.

(e) This title may not be construed to prohibit a service corporation from issuing contracts to groups of persons under a master contract. In this event, however, each subscriber covered under the

master contract shall be issued an individual certificate that shall set out in adequate detail the provisions itemized in (b) of this section.

(f) All proposed forms of subscriber's contracts shall be filed with the director and are subject to the approval of the director under AS 21.87.180.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 12 - 14 ch 40 SLA 1981)

Sec. 21.87.170. Minimum service benefits.

(a) Each service agreement and subscriber's contract entered into or issued by a service corporation must provide for health care services of a substantial and broad character to be rendered to subscribers on a service basis by participant providers or participant hospitals.

(b) The director may, after a hearing, by regulation establish certain minimums of service benefits to be provided consistent with (a) of this section.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 15 ch 40 SLA 1981)

Sec. 21.87.180. Filing and approval of agreements and contracts.

(a) A service corporation may not issue or use a basic form of service agreement or subscriber's contract, or application, identification, supplement, or endorsement to be connected with the agreement or contract, until the form has been filed with and approved by the director. This provision does not apply to riders, endorsements, or other forms of unique character designed for and used with relation to a particular subject.

(b) The director shall approve the form unless disapproved on one or more of the grounds set out in (c) of this section. If not approved or disapproved by order transmitted to the filing service corporation within 30 days after the date filed, the form shall be considered to have been approved.

(c) The director shall disapprove a proposed form referred to in (a) of this section, that

(1) is in any respect not in compliance with or in violation of law;

(2) contains an inconsistent, ambiguous, or misleading clause, or exceptions and conditions that deceptively affect the services or benefits purported to be provided for in the general terms of the agreement or contract;

(3) has any indication of its provisions which is misleading; or

(4) is printed or otherwise reproduced in a manner that renders a provision of the form substantially illegible.

(d) In an order of disapproval the director shall state the particulars of the grounds for disapproval.

(e) A filing under this section is open to public inspection after the date the filing becomes effective.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 105 ch 81 SLA 1997; am Sec. 25 ch 30 SLA 2009)

Amendment Notes -

The 2009 amendment, effective July 1, 2009, added (e).

Sec. 21.87.190. Charges and rates; rating methods.

(a) Subscription rates, fees, and payments to be charged by a service corporation to or on account of its subscribers may not be excessive, inadequate, or unfairly discriminatory; and rates of payments to be made to participant providers and participant hospitals for services rendered under a subscriber's contract, shall be fair and reasonable.

(b) The service corporation shall, before use, file with the director (1) a schedule of subscription rates, fees, or payments of any kind to be charged subscribers; (2) every rating manual, schedule, plan, rule, or formula; and (3) any modification to the rating manual, schedule, plan, rule, or formula. Each filing must state the effective date and must provide a comprehensive description of the coverage. A detailed rate justification, including a rate formula, is confidential.

(c) If the subscriber's contracts to be issued by the service corporation provide for indemnity benefits, where permitted under this chapter, the service corporation shall include in the rate, fee, or payment required of the subscriber an adequate additional charge for the indemnity benefit, and shall separately set out the amount of the additional charge in the schedule filed with the director.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 16 ch 40 SLA 1981; am Sec. 106 ch 81 SLA 1997; am Sec. 58 ch 38 SLA 2002)

Sec. 21.87.200. Reserves.

In addition to the surplus fund provided for in AS 21.87.210, each service corporation shall establish and maintain unimpaired reserves and liabilities required under AS 21.18.050.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 17 ch 40 SLA 1981; am Sec. 107 ch 81 SLA 1997)

Sec. 21.87.210. Surplus fund.

(a) Each service corporation shall set aside into a "surplus fund" an amount of money equal to not less than two percent of all sums hereafter received by it on account of subscriber's contracts, until the surplus fund amounts to not less than \$50,000 if a medical service corporation or hospital service corporation, or \$100,000 if a combination medical-hospital service corporation.

(b) After the minimum surplus fund is established the service corporation may in like manner increase it to an amount not to exceed the total gross collections from subscribers during the immediately preceding seven months.

(c) That portion of the surplus fund referred to in (a) of this section may be used by the service corporation by express appropriation by action of its board of directors solely if necessary to pay the additional health care costs and expenses under its contracts resulting from disease, epidemic or catastrophic occurrences in which numerous persons were injured in the same occurrence.

(d) If the surplus fund is at any time depleted below the minimum amount required under (a) of this section, the service corporation shall replenish the fund by a resumption or continuance of allocations from subscribers' payments, as provided for original accumulation of the fund under (a) of this section, or by other reasonable means that may be approved by the director.

(e) The director may adopt regulations that are necessary to assure that each service corporation maintains an adequate surplus fund.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.220. Investments.

(a) A service corporation shall invest and have invested its funds in the following investments only:

(1) cash on deposit or in savings accounts in banks or trust companies in this state;
(2) deposits in or shares of the savings and loan associations that are insured by an instrumentality of the United States government, and not in excess of the amount of the insurance in any one such institution;

(3) public obligations, as provided under AS 21.21;

(4) corporate obligations, as provided under AS 21.21; and

(5) real estate for use as a home office, at a cost not exceeding 10 percent of the corporation's assets at the time of investment, unless a larger amount has been approved by the director.

(b) AS 21.21 shall apply to the investments of service corporations, to the extent applicable, and for the purposes of the application a service corporation shall be considered to be an insurer.

(c) The director may adopt regulations governing the extent to which the sections referred to in (b) of this section are applicable to a service corporation.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 79 ch 81 SLA 2001)

Sec. 21.87.230. Records and accounts.

(a) Every service corporation shall establish and maintain complete and accurate records and accounts covering its transactions and affairs, in accordance with common and accepted principles and practices of insurance accounting and record keeping as applied to the business of the corporation.

(b) Among other records, the corporation shall establish a separate record of each claim received for benefits under a subscriber's contract, whether the claim is for service or for indemnity. The claim record must contain information reasonably necessary for the determination of

(1) the identity of the claimant;

(2) the nature of the claim;

(3) the probable amount to be paid by the corporation on account of the claim;

(4) the amounts actually paid by the corporation on account of the claim.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.240. Annual statement and fees.

(a) Each service corporation shall annually before March 2 file with the director a statement of its financial condition as at the preceding December 31. The statement must be in the form, and provide for the information relative to the corporation's affairs, that the director prescribes, consistent with this chapter. The statement shall be verified under oath by at least two of the corporation's principal administrative officers.

(b) At the time of filing the statement, the corporation shall pay a fee set under AS 21.06.250.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 28 ch 26 SLA 1985)

Sec. 21.87.250. Examination.

Every service corporation shall be subject to examination by the director, with the same rights and powers and in the same manner as is provided in this title for the examination of insurers; and for the purposes thereof AS 21.06.120 - 21.06.180 shall, to the extent applicable, apply to such a corporation, which, for the purpose of the application shall be considered to be an insurer.

History -

(Sec. 1 ch 120 SLA 1966)

Revisors Notes -

Rewritten in 1984 by consolidating the provisions of former paragraphs (1)-(9) into the text.

Sec. 21.87.260. Taxation.

Every hospital and medical service corporation doing business under this chapter shall be taxed as provided in AS 21.09.210.

History -

(Sec. 1 ch 120 SLA 1966)

Decisions -

Stated in *Premera Blue Cross v. State*, 171 P.3d 1110 (Alaska 2007).

Sec. 21.87.270. Joint operations.

(a) A hospital service corporation and a medical service corporation may operate under joint management for the purpose of reducing operating costs.

(b) Separate records and accounts shall be kept for each corporation, and the funds and assets of one may not be commingled with those of the other; except that funds received from a joint billing to subscribers may be deposited in a common bank account for purposes of collection, if the records of each corporation at all times show the amount of the funds belonging to each and if final distribution of the funds is made to each corporation within 30 days from receipt of payment of the joint billing.

History -

(Sec. 1 ch 120 SLA 1966)

Revisors Notes -

In 1991, in (b), "assets of one" was substituted for "assets on one" to correct a manifest error in ch. 120, SLA 1966.

Sec. 21.87.280. Combined corporation.

(a) A service corporation may be formed as, or may by suitable amendment of its articles of incorporation become, a combined medical service and hospital service corporation. As to its medical services each combined service corporation shall fully comply with those provisions of this chapter especially applicable as to medical service corporations; and as to its hospital services the corporation shall fully comply with those provisions of this chapter especially applicable as to hospital service corporations.

(b) Subject to (a) of this section, nothing in this chapter prohibits a combined service corporation from issuing subscriber's contracts providing for both medical services and hospital services.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.290. Contracts covering workers' compensation risks.

A service corporation may not issue a subscriber's contract covering, or otherwise insure, an industrial injury or illness if health care service or indemnity benefits are provided by either federal or state law, or under the Alaska Workers' Compensation Act.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.300. Annual adjustment of service payments.

(a) At least once each year each service corporation shall make a special accounting, at which time any prorated settlements for bills submitted by participant providers or hospitals for services rendered during the preceding calendar year shall be adjusted, and any deficits made up on a uniform basis as to all participants to the extent of funds available.

(b) Funds of the service corporation remaining after the annual accounting, and after adequate provision for all its liabilities and reserves, and for the surplus fund required under AS 21.87.210, may be used by the corporation, upon express authorization by its board of directors, for any of the following purposes:

(1) to liquidate on a uniform and pro rata basis charges for services by participant providers or participant hospitals not paid in full upon the settlement of bills in previous years;

(2) to pay off any part or the whole of an outstanding contribution of working capital to the corporation, the payment to be prorated on a uniform basis among all the outstanding contributions; or

(3) to reduce the rates thereafter to be charged subscribers, or to expand the services or benefits thereafter to be provided under subscription contracts.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 18, 19 ch 40 SLA 1981)

Sec. 21.87.310. Fidelity bond.

Each service corporation shall procure and maintain in force a fidelity bond or bonds, with authorized corporate surety, covering every officer or employee entrusted with the handling of its funds, in an amount, but not less than \$5,000, that may be fixed by its board of directors.

History -

(Sec. 1 ch 120 SLA 1966)

Sec. 21.87.320. Fee and licenses. [Repealed, Sec. 30 ch 26 SLA 1985].

Repealed or Renumbered

Sec. 21.87.330. Definitions.

In this chapter,

(1) "health care service" means a service rendered to an individual for diagnosis, relief, or treatment of an injury, ailment, or bodily condition;

(2) "hospital service corporation" means a service corporation that principally provides hospital services;

(3) "medical service corporation" means a service corporation that principally provides medical or surgical services;

(4) "nurse midwife" means a registered professional nurse who is certified as an advanced nurse practitioner under AS 08.68.850 and authorized to practice as a nurse midwife under regulations adopted in accordance with AS 08.68;

(5) "participant hospital" is one that has entered into a service agreement with a service corporation;

(6) "participant provider" means a provider who has entered into a service agreement with a service corporation;

(7) "physician" includes also "surgeon;"

(8) "provider" means a physician, dentist, osteopath, optometrist, chiropractor, nurse midwife, or other licensed health care practitioner;

(9) "service agreement" is a contract between a service corporation and a provider or hospital under which the provider or hospital agrees to render all or part of one or more health care services to subscribers of the service corporation;

(10) "service corporation" means a corporation providing all or part of one or more health care services for subscribers in exchange for periodic prepayments in identifiable amount by or as to the subscribers;

(11) "subscriber's contract" is that between the service corporation and its subscriber under which all or part of one or more health care services is to be rendered to or on behalf of the subscriber by a participant provider or hospital that has entered into a service agreement with the corporation covering the services.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 20 - 23 ch 40 SLA 1981)

Revisors Notes -

Reorganized in 1984 to alphabetize the defined terms. In 2010, in paragraph (4), "AS 08.68.850" was substituted for "AS 08.68.410" to reflect the 2010 renumbering of AS 08.68.410.

Sec. 21.87.340. Other provisions applicable.

In addition to the provisions contained or referred to previously in this chapter, the following chapters and provisions of this title also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and, for the purposes of the application, the corporations shall be considered to be mutual "insurers":

(1) AS 21.03;

(2) AS 21.06;

(3) AS 21.07;

(4) AS 21.09, except AS 21.09.090;

- (5) AS 21.18.010;
- (6) AS 21.18.030;
- (7) AS 21.18.040;
- (8) AS 21.18.080 - 21.18.086;
- (9) AS 21.36;
- (10) AS 21.42.110, AS 21.42.345 - 21.42.395;
- (11) AS 21.51.120 and 21.51.400;
- (12) AS 21.53;
- (13) AS 21.54;
- (14) AS 21.56;
- (15) AS 21.69.400;
- (16) AS 21.69.520;
- (17) AS 21.69.600, 21.69.620, and 21.69.630;
- (18) AS 21.78;
- (19) AS 21.96.060;
- (20) AS 21.97.

History -

(Sec. 1 ch 120 SLA 1966; am Sec. 1 ch 92 SLA 1974; am Sec. 2 ch 95 SLA 1975; am Sec. 2 ch 84 SLA 1976; am Sec. 24 ch 40 SLA 1981; am Sec. 3 ch 45 SLA 1981; am Sec. 3 ch 150 SLA 1988; am Sec. 4 ch 106 SLA 1990; am Sec. 4 ch 133 SLA 1990; am Sec. 2 ch 69 SLA 1991; am Sec. 2 ch 28 SLA 1992; am Sec. 2 ch 101 SLA 1992; am Sec. 8 ch 39 SLA 1993; am Sec. 108 ch 81 SLA 1997; am Sec. 84 ch 81 SLA 2001; am Sec. 59, 60 ch 38 SLA 2002; am Sec. 26 ch 30 SLA 2009)

Revisors Notes -

Reorganized in 1990 to place the statutory references in numerical order, in 2001 to reflect the 2002 repeal of former paragraphs (7) and (8), and in 2002 to retain the statutory references in numerical order following the 2002 addition of new paragraphs and the repeal of former paragraph (17).

In 2010, in paragraph (10), "AS 21.42.345 - 21.42.395" was substituted for "AS 21.42.345 - 21.42.365, and 21.42.375 - 21.42.500" to reflect the 2010 renumbering of AS 21.42.370. In 2010, in paragraph (19), "AS 21.96.060" was substituted for "AS 21.89.060" to reflect the 2010 renumbering of AS 21.89.060, and in paragraph (20), "AS 21.97" was substituted for "AS 21.90" to reflect the 2010 renumbering of AS 21.90.

Amendment Notes -

The 2009 amendment, effective July 1, 2009, in (10), added "AS 21.42.110,"; in (11), added "and 21.51.400".

Decisions -

Quoted in *Premera Blue Cross v. State*, 171 P.3d 1110 (Alaska 2007).

Sec. 21.87.350. Existing certificates of authority.

A health care service contractor registered to do business in this state on July 1, 1966, is entitled to be registered under this chapter, whether or not it meets the requirements of this chapter.

History -

(Sec. 1 ch 120 SLA 1966)