

HOUSE CS FOR CS FOR SENATE BILL NO. 67(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/22/05

Referred: Finance

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to claims for personal injury or wrongful death against health care**
2 **providers."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 SHORT TITLE. This Act may be known as the Alaska Medical Injury Compensation
7 Reform Act of 2005.

8 *** Sec. 2.** AS 09.55 is amended by adding a new section to read:

9 **Sec. 09.55.549. Limitation on damages.** (a) Notwithstanding AS 09.17.010,
10 noneconomic damages for personal injury or death based on the provision of services
11 by a health care provider may only be awarded as provided in this section.

12 (b) In an action to recover damages for personal injury or wrongful death
13 based on the provision of services by a health care provider, damages may include
14 both economic and noneconomic damages.

1 (c) Damage claims for noneconomic losses shall be limited to compensation
 2 for pain, suffering, inconvenience, physical impairment, disfigurement, loss of
 3 enjoyment of life, loss of consortium, and other nonpecuniary damage, but may not
 4 include hedonic damages.

5 (d) Except as provided in (e) of this section, the damages awarded by a court
 6 or a jury under (c) of this section for all claims including a loss of consortium claim or
 7 other derivative claim arising out of a single injury or death may not exceed \$250,000
 8 regardless of the number of health care providers against whom the claim is asserted
 9 or the number of separate claims or causes of action brought with respect to the injury
 10 or death.

11 (e) The damages awarded by a court or jury under (c) of this section for all
 12 claims including a loss of consortium claim or other derivative claim arising out of a
 13 single injury or death may not exceed \$400,000 regardless of the number of health
 14 care providers against whom the claim is asserted or the number of separate claims or
 15 causes of action brought with respect to the injury or death when damages are awarded
 16 for wrongful death or severe permanent physical impairment that is more than 70
 17 percent disabling.

18 (f) Multiple injuries sustained by one person as a result of a single course of
 19 treatment shall be treated as a single injury for purposes of this section.

20 (g) In this section,

21 (1) "economic damages" means objectively verifiable monetary losses
 22 incurred as a result of the provision of, use of, or payment for, or failure to provide,
 23 use, or pay for health care services or medical products, and includes past and future
 24 medical expenses, loss of past and future earnings, cost of obtaining domestic services,
 25 burial expenses, loss of use of property, cost of replacement or repair, loss of
 26 employment, and loss of business or employment opportunities;

27 (2) "health care provider" has the meaning given in AS 09.55.560 and
 28 includes a state agency or municipality the health care services of which are the
 29 subject of an action that is subject to this section;

30 (3) "hedonic damages" means damages that attempt to compensate for
 31 the pleasure of being alive.

1 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **APPLICABILITY.** This Act applies to suits against health care providers and to
4 malpractice claims that are subject to an agreement to arbitrate initially filed on or after the
5 effective date of this Act.