

**HOUSE CS FOR CS FOR SENATE BILL NO. 67(FIN) am H**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/5/05

Offered: 4/28/05

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

17 (f) The limitation on noneconomic damages in this section does not apply if  
 18 the damages resulted from an act or omission that constitutes reckless or intentional  
 19 misconduct.

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

22 (h) In this section,

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

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

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

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

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