

CS FOR HOUSE BILL NO. 314(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/26/10

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to fees and charges for medical treatment or services, civil damages,**
2 **investigations, and penalties as they relate to workers' compensation; and providing for**
3 **an effective date."**

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

5 *** Section 1.** AS 23.30.097(a) is amended to read:

6 (a) All fees and other charges for medical treatment or service are subject to
7 regulation by the board consistent with this section. A fee or other charge for medical
8 treatment or service may not exceed the lowest of

9 (1) the usual, customary, and reasonable fees for the treatment or
10 service in the community in which it is rendered, for treatment or service

11 (A) provided before August 1, 2007, not to exceed the fees in
12 the board's fee schedule dated December 1, 2004;

13 (B) provided on or after August 1, 2007, but before March 31,
14 2009, not to exceed the fees otherwise applicable in (A) of this paragraph

1 adjusted by the percentage change from 2004 to 2006 in the medical care
 2 component of the Consumer Price Index for all urban consumers compiled by
 3 the United States Department of Labor, Bureau of Labor Statistics;

4 (C) provided on or after March 31, 2009, but before
 5 December 31, 2010, not to exceed the fees otherwise applicable in (A) of this
 6 paragraph adjusted by the percentage change from 2004 to 2008 in the medical
 7 care component of the Consumer Price Index for all urban consumers compiled
 8 by the United States Department of Labor, Bureau of Labor Statistics;

9 **(D) provided on or after December 31, 2010, not to exceed**
 10 **the fees or other charges as specified in a fee schedule established by the**
 11 **board and adopted by reference in regulation; the fee schedule must be**
 12 **based on statistically credible data, including charges for the most recent**
 13 **category I, II, and III medical services maintained by the American**
 14 **Medical Association and the Health Care Procedure Coding System for**
 15 **medical supplies, injections, emergency transportation, and other**
 16 **medically related services, and must result in a schedule that**

17 **(i) reflects the cost in the geographical area where**
 18 **services are provided; and**

19 **(ii) is at the 90th percentile;**

20 (2) the fee or charge for the treatment or service when provided to the
 21 general public; or

22 (3) the fee or charge for the treatment or service negotiated by the
 23 provider and the employer under (c) of this section.

24 * **Sec. 2.** AS 23.30.250(a) is amended to read:

25 (a) A person who (1) knowingly makes a false or misleading statement,
 26 representation, or submission related to a benefit under this chapter; (2) knowingly
 27 assists, abets, solicits, or conspires in making a false or misleading submission
 28 affecting the payment, coverage, or other benefit under this chapter; (3) knowingly
 29 misclassifies employees or engages in deceptive leasing practices for the purpose of
 30 evading full payment of workers' compensation insurance premiums; or (4) employs
 31 or contracts with a person or firm to coerce or encourage an individual to file a

1 fraudulent compensation claim is **guilty of workers' compensation fraud, which**
 2 **may be punished under AS 11.46.120 - 11.46.150, and may also be guilty of**
 3 **perjury and related offenses under AS 11.56.200 - 11.56.230** [CIVILLY LIABLE
 4 TO A PERSON ADVERSELY AFFECTED BY THE CONDUCT, IS GUILTY OF
 5 THEFT BY DECEPTION AS DEFINED IN AS 11.46.180, AND MAY BE
 6 PUNISHED AS PROVIDED BY AS 11.46.120 - 11.46.150].

7 * **Sec. 3.** AS 23.30.250(c) is repealed and reenacted to read:

8 (c) In addition to criminal penalties under this section, a person who violates
 9 this chapter is liable in a civil action brought by or on behalf of a person who suffers
 10 economic damages as a result of the violation for an award of three times the amount
 11 of compensatory damages resulting from the violation, subject to adjustment under
 12 AS 09.17, and an award of reasonable attorney fees.

13 * **Sec. 4.** AS 23.30.280(a) is amended to read:

14 (a) The director shall establish a section within the division for the
 15 investigation of fraudulent or misleading acts under **this chapter** [AS 23.30.250] and
 16 other fraudulent acts relating to workers' compensation.

17 * **Sec. 5.** AS 23.30.280(b) is amended to read:

18 (b) The director may investigate facts reported under this section and may
 19 refer facts indicating a possible violation of law to the appropriate prosecutor or
 20 agency. If the director determines that there is credible evidence that a person obtained
 21 a payment, compensation, medical treatment, or other benefit provided under this
 22 chapter by a fraudulent act or false or misleading statement or representation [AS
 23 PROVIDED IN AS 23.30.250(a)], the director shall notify the affected employer,
 24 insurer, and adjuster upon conclusion of the investigation. If the fraudulent act or false
 25 or misleading statement or representation was perpetrated against the division, the
 26 director may file a petition as provided in AS 23.30.110 for an order of forfeiture
 27 against the person, precluding, in whole or in part, the person from future payment,
 28 compensation, medical treatment, or other benefit provided under this chapter.

29 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).