

Introduced: 4/16/75  
Referred: Health, Education &  
Social Services and Judiciary

1 IN THE HOUSE

BY HACKNEY BY REQUEST

2 HOUSE BILL NO. 436

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Medical Injuries Compensation  
7 Board; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 Sec. 09.55.531. MALPRACTICE ACTIONS. All claims for injury or  
11 death based on the negligence of a physician licensed under AS 08.64,  
12 a dentist licensed under AS 08.36, a nurse licensed under AS 08.68,  
13 or an institution licensed under AS 18.20 shall be adjudicated by the  
14 Medical Injuries Compensation Board.

15 Sec. 09.55.532. MEDICAL INJURIES COMPENSATION BOARD, MEMBERSHIP,  
16 APPOINTMENT. (a) There is established the Medical Injuries Compensa-  
17 tion Board which shall adjudicate all claims of injury or death caused  
18 by negligence of a health care provider.

19 (b) The board consists of five members appointed by the governor.  
20 Membership shall include one physician licensed and practicing in the  
21 state appointed by the governor from a list of three candidates sub-  
22 mitted by the Alaska Medical Association; one attorney licensed and  
23 practicing in the state appointed by the governor from a list of three  
24 candidates submitted by the Alaska Bar Association; a hospital adminis-  
25 trator appointed by the governor from a list of three candidates sub-  
26 mitted by the Alaska Hospital Association; a superior court judge;  
27 and a representative of the general public who is not an attorney or a  
28 health care provider.

29 Sec. 09.55.533. POWERS AND DUTIES OF BOARD. (a) The board shall

1 hear and adjudicate all claims for damages for injury or death against  
2 a health care provider based on negligence of the health care provider.

3 (b) The board may

- 4 (1) require production of documents;  
5 (2) require witnesses to appear before it;  
6 (3) administer oaths;  
7 (4) perform other duties necessary to implement the provi-  
8 sions of secs. 531 - 542 of this chapter.

9 Sec. 09.55.534. CLAIMS. (a) An injured person or his representa-  
10 tive may bring a claim for damages based on the negligence of a health  
11 care provider before the board by submitting in writing

12 (1) the name, address, and date of birth of the person whose  
13 injury or death gives rise to the claim;

14 (2) the nature of the injury suffered or the cause of death;

15 (3) the name of the health care provider whose negligence  
16 allegedly caused the injury;

17 (4) a list of insurance policies or other sources of income  
18 or benefits which have been paid or are payable to the injured person  
19 or on behalf of the deceased for injury, disability, economic loss,  
20 medical care, death, or for the benefit of a person dependent on the  
21 injured or deceased person.

22 (b) A claim based on negligence of a health care provider shall  
23 be brought to the board within two years of the date of the act or  
24 omission alleged in the claim to have given rise to the injury or death.

25 Sec. 09.55.535. ADJUDICATION BY BOARD, APPEAL. (a) The board  
26 shall hear the evidence offered by the claimant and the defendant health  
27 care provider according to the rules of evidence as provided in this  
28 title and by the Rules of Civil Procedure. If the board finds that the  
29 health care provider was negligent in providing health care to the

1  
2 defendant, and the negligence was the proximate cause of the claimant's  
3 injury or death, the board shall make a finding in favor of the claimant  
4 and an award of compensation.

5 (b) Judicial review of a finding by the board may be sought only  
6 to challenge the board's determination of a question of law.

7 Sec. 09.55.536. AWARDS. (a) Awards made under secs. 531 - 542  
8 of this chapter may include payment for

9 (1) permanent partial or total disability or death in an  
10 amount equal to awards under the Workmen's Compensation Act for similar  
11 disability or death;

12 (2) medical care;

13 (3) rehabilitation;

14 (4) custodial care;

15 (5) loss of income equal to 75 per cent of the monthly net  
16 income earned by the injured person but not exceeding \$1,200 a month  
17 for a maximum period of 120 months;

18 (6) in case of death of the claimant, support payments to  
19 dependent survivors up to a maximum payment of

20 (A) \$800 a month to the surviving spouse for no more  
21 than 120 months;

22 (B) \$200 a month to each minor child until the child  
23 reaches majority or marries;

24 (C) \$200 a month to any other dependent for no more  
25 than 120 months;

26 (7) attorney fees based on the time spent by the attorney  
27 on the case plus reasonable costs.

28 (b) Awards shall be decreased by the amount received by the  
29 injured or deceased person and his dependents from insurance policies  
and other sources as a result of the injury or death.

1           Sec. 09.55.537. LIMITATION OF LIABILITY OF HEALTH CARE PROVIDER,  
2 LIABILITY OF STATE. A health care provider found negligent by the board  
3 is liable for all compensation awarded by the board to the claimant and  
4 his dependents for two years after the date of the award. The state  
5 shall pay any compensation awarded by the board for which the health  
6 care provider is not liable.

7           Sec. 09.55.538. REVIEW OF HEALTH CARE PROVIDER'S LICENSE. The  
8 health care provider's qualifications to practice shall be reviewed by  
9 the appropriate licensing board within 90 days of the date he is found  
10 negligent by the board. The licensing board may censure, place on  
11 probation, restrict the practice, require further formal training,  
12 revoke or suspend the license, or in the case of an institution close  
13 the facility, of a health care provider found negligent by the board.

14           Sec. 09.55.539. LIABILITY INSURANCE REQUIRED. A health care  
15 provider, in order to practice or operate in the state, shall be insured  
16 against claims based on negligence of the health care provider in an  
17 amount of at least \$100,000 a claim.

18           Sec. 09.55.541. EXCLUSIVE REMEDY. The remedy provided in secs.  
19 531 - 542 of this chapter is the exclusive remedy for damages for injury  
20 or death based on the negligence of a health care provider.

21           Sec. 09.55.542. DEFINITIONS. In secs. 531 - 542 of this chapter

22           (1) "board" means Medical Injuries Compensation Board;

23           (2) "health care provider" means a physician licensed under  
24 AS 08.64, a dentist licensed under AS 08.36, a nurse licensed under  
25 AS 08.68, or an institution licensed under AS 18.20.

26 \* Sec. 2. AS 09.55.530, 09.55.540, and 09.55.550 are repealed.

27 \* Sec. 3. This Act expires June 30, 1981.

28 \* Sec. 4. This Act takes effect July 1, 1975.