

Introduced: 4/24/75
Referred: Judiciary and Health
Education & Social Services

1 IN THE HOUSE

BY SULLIVAN BY REQUEST

2 HOUSE BILL NO. 455

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to limitation of liability and confi-
7 dentiality of records of a medical review committee and
8 amending Rule 43(h) of the Rules of Civil Procedure."

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

10 * Section 1. AS 09.65 is amended by adding a new section to read:

11 Sec. 09.65.130. MEDICAL REVIEW COMMITTEE-LIMITATION OF LIABILITY
12 AND CONFIDENTIALITY OF RECORDS. (a) No person who is a member or
13 employee of, who acts in an advisory capacity to or who furnishes counsel
14 or services to, a review committee is liable for damages or other relief
15 in any action brought by a person whose activities have been or are
16 being scrutinized or reviewed by the committee, by reason of the per-
17 formance by him of a duty, function or activity of the committee, unless
18 the performance of that duty, function or activity was motivated by
19 malice toward the person affected. No person is liable for damages or
20 other relief in any action by reason of the performance of him of a duty,
21 function, or activity as a member of a review committee or by reason of
22 a recommendation or action of the review committee when the person acts
23 in the reasonable belief that his action or recommendation is warranted
24 by facts known to him or the review committee after reasonable efforts
25 to ascertain the facts upon which the review committee's action or
26 recommendation is made.

27 (b) All data and information acquired by a review committee, in
28 the exercise of its duties and functions, shall be held in confidence,
29 shall not be disclosed to anyone except to the extent necessary to carry

1 out one or more of the purposes of the review committee, and shall not
2 be subject to subpoena or discovery. No person shall disclose what
3 transpired at a meeting of a review committee except to the extent
4 necessary to carry out one or more of the purposes of the committee.
5 The proceedings and records of a review committee are not subject to
6 discovery or introduction into evidence in a civil action against a
7 professional arising out of the matter which is the subject of con-
8 sideration by the committee. Information, documents or records otherwise
9 available from original sources are not immune from discovery or use in
10 any civil action merely because they were presented during proceedings
11 of a review committee, nor shall any person who testified before a
12 review committee or who is a member of it be prevented from testifying
13 as to matters within his knowledge, but a witness cannot be asked about
14 his testimony before a review committee or opinions formed by him as a
15 result of its hearings.

16 (c) As used in this section, the term "medical review committee"
17 or "committee" means a committee of a state or local professional society
18 or of a medical staff of a licensed hospital or nursing home, if the
19 medical staff operates under written bylaws that have been approved by
20 the governing board of the hospital or nursing home, which is formed to
21 evaluate and improve the quality of health care rendered by providers of
22 health service or to determine that health services rendered were pro-
23 fessionally indicated or were performed in compliance with the applicable
24 standard of care or that the cost of health care rendered was considered
25 reasonable by the providers of professional health services in the area.

26 * Sec. 2. Section 1 of this Act amends Rule 43(h) of the Rules of Civil
27 Procedure by creating a privilege from discovery and testimony concerning
28 data and information acquired by a medical review committee in the exercise
29 of its functions.