

Introduced: 1/31/75
Referred: Judiciary and
Health, Education and
Social Services

1 IN THE SENATE

BY ZIEGLER

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HCS

SENATE BILL NO. 113

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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NINTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to health care information."

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

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* Section 1. AS 18 is amended by adding a new chapter to read:

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CHAPTER 23. HEALTH LAW INFORMATION.

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Sec. 18.23.010. LIMITATION ON LIABILITY FOR PERSONS PROVIDING

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INFORMATION TO REVIEW ORGANIZATION. No person, firm, or corporation

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providing information to a review organization subject to action for

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damages or other relief, by reason of having furnished such information,

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unless the information is false and the person providing the information

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knew, or had reason to believe, the information was false.

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Sec. 18.23.020. LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW

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ORGANIZATIONS. No person who is a member or employee of, who acts in an

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advisory capacity to or who furnishes counsel or services to, a review

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organization is liable for damages or other relief in an action brought

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by a person whose activities have been or are being scrutinized or re-

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viewed by a review organization, by reason of the performance by him of

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a duty, function or activity of the review organization, unless the

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performance of the duty, function or activity was motivated by malice

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toward the affected person. No person is liable for damages or other

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relief in an action by reason of the performance of him of a duty,

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function, or activity as a member of a review committee or by reason

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of a recommendation or action of the review committee when the person

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acts in the reasonable belief that his action or recommendation is

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warranted by facts known to him or the review organization after

1 reasonable efforts to ascertain the facts upon which the review organi-
2 zation's action or recommendation is made.

3 Sec. 18.23.030. CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.

4 All data and information acquired by a review organization, in the
5 exercise of its duties and functions, shall be held in confidence, may
6 not be disclosed to anyone except to the extent necessary to carry out
7 one or more of the purposes of the review organization, and is not
8 subject to subpoena or discovery. No person described in sec. 20 of this
9 chapter may disclose what transpired at a meeting of a review organiza-
10 tion except to the extent necessary to carry out one or more of the
11 purposes of a review organization. The proceedings and records of a
12 review organization are not subject to discovery or introduction into
13 evidence in a civil action against a professional arising out of the
14 matter which is the subject of consideration by the review organization.
15 Information, documents or records otherwise available from original
16 sources are not immune from discovery or use in a civil action merely
17 because they were presented during proceedings of a review organization,
18 nor may a person who testified before a review organization or who is a
19 member of it be prevented from testifying as to matters within his know-
20 ledge, but a witness cannot be asked about his testimony before a review
21 organization or opinions formed by him as a result of its hearings.

22 Sec. 18.23.040. GUIDELINES NOT ADMISSIBLE IN EVIDENCE. No guide-
23 line established by a review organization is admissible in evidence in a
24 proceeding brought by or against a professional by a person to whom the
25 professional has rendered professional services.

26 Sec. 18.23.050. PENALTY FOR VIOLATION. A disclosure other than
27 that authorized by sec. 30 of this chapter, of data and information
28 acquired by a review committee or of what transpired at a review meeting,
29 is a misdemeanor and punishable under AS 11.05.010.

1 Sec. 18.23.060. PROTECTION OF PATIENT. Nothing contained in this
2 chapter may be construed to relieve a person of liability which he has
3 incurred or may incur to a patient as a result of furnishing health care
4 to the patient.

5 Sec. 18.23.070. PARTIES BOUND BY REVIEW. When a review organiza-
6 tion reviews matters under sec. 80(5)(H)(i) - 80(5)(H)(v) of this
7 chapter no party may be bound in a controversy, dispute or question
8 unless he agrees in advance either specifically or generally, to be
9 bound by the ruling.

10 Sec. 18.23.080. DEFINITIONS. In this chapter, unless the context
11 otherwise requires

12 (1) "administrative staff" means the staff of a hospital or
13 clinic;

14 (2) "health care" means professional services rendered by a
15 professional or an employee of a professional and services furnished by
16 a hospital, sanatorium, rest home, nursing home, boarding home or other
17 institution for the hospitalization or care of human beings;

18 (3) "professional" means a person licensed to practice
19 medicine under AS 08.64, nursing under AS 08.68, dentistry under AS 08.-
20 36, pharmacy under AS 08.80; to practice as a psychologist under AS 08.86,
21 a physical therapist under AS 08.84, an optometrist under AS 08.72, or a
22 chiropractor under AS 08.20;

23 (4) "professional service" means service rendered by a pro-
24 fessional of the type the professional is licensed to perform;

25 (5) "review organization" means a committee whose membership
26 is limited to professionals and administrative staff, except where other-
27 wise provided for by state or federal law, and which is established by a
28 hospital, by a clinic, by one or more state or local associations of
29 professionals, by an organization of professionals from a particular area

1 or medical institution, or by a professional standards review organiza-
2 tion established under 42 U.S.C., sec. 1320c-1 et seq. to gather and
3 review information relating to the care and treatment of patients for
4 the purposes of:

5 (A) evaluating and improving the quality of health care
6 rendered in the area or medical institution;

7 (B) reducing morbidity or mortality;

8 (C) obtaining and disseminating statistics and informa-
9 tion relative to the treatment and prevention of diseases, illness
10 and injuries;

11 (D) developing and publishing guidelines showing the
12 norms of health care in the area or medical institution;

13 (E) developing and publishing guidelines designed to
14 keep the cost of health care within reasonable bounds;

15 (F) reviewing the quality or cost of health care services
16 provided to enrollees of health maintenance organizations;

17 (G) acting as a professional standards review organiza-
18 tion under 42 U.S.C., sec. 1320c-1 et seq.;

19 (H) reviewing, ruling on, or advising on controversies,
20 disputes or questions between:

21 (i) health insurance carriers or health maintenance
22 organizations and their insureds or enrollees;

23 (ii) professional licensing boards acting under their
24 powers including disciplinary, license revocation or suspension
25 procedures and health providers licensed by them when the
26 matter is referred to a review committee by the professional
27 licensing board;

28 (iii) professionals and their patients concerning
29 diagnosis, treatment or care, or a charge or fee,

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(iv) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee; or

(v) professionals or their patients and a federal, state, or local government, or an agency of a federal, state or local government.

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