

Original sponsor: Ziegler

Offered: 5/17/75
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 113

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 health care information."

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

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

9 CHAPTER 23. HEALTH LAW INFORMATION.

10 Sec. 18.23.010. LIMITATION ON LIABILITY FOR PERSONS PROVIDING IN-
11 FORMATION TO REVIEW ORGANIZATION. No person, firm, or corporation pro-
12 viding information to a review organization shall be subject to action
13 for damages or other relief, by reason of having furnished such informa-
14 tion, unless the information is false and the person providing the
15 information knew, or had reason to believe, the information was false.

16 Sec. 18.23.020. LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW
17 ORGANIZATIONS. No person who is a member or employee of, who acts in an
18 advisory capacity to or who furnishes counsel or services to, a review
19 organization is liable for damages or other relief in an action brought
20 by a person whose activities have been or are being scrutinized or
21 reviewed by a review organization, by reason of the performance by him
22 of a duty, function or activity of the review organization, unless the
23 performance of the duty, function or activity was motivated by malice
24 toward the affected person. No person is liable for damages or other
25 relief in an action by reason of the performance of him of a duty,
26 function, or activity as a member of a review committee or by reason of
27 a recommendation or action of the review committee when the person acts
28 in the reasonable belief that his action or recommendation is warranted
29 by facts known to him or the review organization after reasonable efforts

1 to ascertain the facts upon which the review organization's action or
2 recommendation is made.

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

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

24 (b) Testimony, documents, proceedings, records and other evidence
25 adduced before a review organization that are otherwise inaccessible
26 under this section may be obtained under subpoena or discovery proceedings
27 brought by a plaintiff who claims that information provided to a review
28 organization was false, and that the person providing the information
29 knew or had reason to believe the information was false.

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

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

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

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

18 Sec. 18.23.080. DEFINITIONS. In this chapter, unless the context
19 otherwise requires

20 (1) "administrative staff" means the staff of a hospital or
21 clinic;

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

26 (3) "professional" means a person licensed to practice
27 medicine under AS 08.64, nursing under AS 08.68, dentistry under AS 08.-
28 36, pharmacy under AS 08.80; to practice as a psychologist under AS 08.86,
29 a physical therapist under AS 08.84, an optometrist under AS 08.72, or a

1 chiropractor under AS 08.20;

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

4 (5) "review organization" means a committee whose membership
5 is limited to professionals and administrative staff, except where
6 otherwise provided for by state or federal law, and which is established
7 by a hospital, by a clinic, by one or more state or local associations
8 of professionals, by an organization of professionals from a particular
9 area or medical institution, or by a professional standards review
10 organization established under 42 U.S.C., sec. 1320c-1 et seq. to gather
11 and review information relating to the care and treatment of patients
12 for the purposes of:

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

15 (B) reducing morbidity or mortality;

16 (C) obtaining and disseminating statistics and informa-
17 tion relative to the treatment and prevention of diseases, illness
18 and injuries;

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

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

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

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

27 (H) reviewing, ruling on, or advising on controversies,
28 disputes or questions between:

29 (i) health insurance carriers or health maintenance

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organizations and their insureds or enrollees;

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

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

(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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