

Introduced: 4/11/75
Referred: Commerce

1 IN THE SENATE

BY RODEY AND KERTTULA

2 *HCS* SENATE BILL NO. 361 *am H*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act concerning health care liability insurance; and
7 providing for an effective date."

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

9 * Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 67. HEALTH CARE LIABILITY UNDERWRITING ASSOCIATION.

11 Sec. 21.67.010. JOINT UNDERWRITING ASSOCIATION. If the director
12 of insurance finds after a hearing that health care liability insurance
13 is either not readily available on the voluntary market or that health
14 care liability insurance available on the voluntary market does not
15 provide adequate coverage, he shall by regulation establish a joint
16 underwriting association to provide health care liability insurance to
17 health care providers in the state on a self-supporting basis. Member-
18 ship of the association consists of all insurers authorized to write and
19 engaged in writing casualty insurance, as defined in AS 21.12.070, on a
20 direct basis in the state. Membership in the association is a condition
21 of transacting casualty insurance in the state.

22 Sec. 21.67.020. PARTICIPATION IN ASSOCIATION, DIRECTORS. (a)
23 Each member participates in the writing of policies, expenses, profits
24 and losses of the association in the proportion of the net direct premi-
25 ums written the preceding calendar year in the state by each member,
26 excluding the premiums attributable to the operation of the association,
27 to the aggregate net direct premiums written in the state by all members
28 of the association in the preceding calendar year. Each member's parti-
29 cipation in the association is determined annually on the basis of the

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1 annual statements filed by the member with the division of insurance.

2 (b) The association shall be governed by a board of three
3 directors, who are elected by cumulative voting of the members of the
4 association; the votes are weighted according to each member's partici-
5 pation the year of the election. The directors serve terms of two years.
6 The directors on the first board shall be elected at a meeting of
7 members at a time and place designated by the director of insurance.

8 Sec. 21.67.030. POWERS AND DUTIES OF ASSOCIATION. (a) The associ-
9 ation may

10 (1) issue or authorize the issuance of policies of insurance
11 to applicants;

12 (2) underwrite the insurance policies issued and adjust and
13 pay losses on the policies;

14 (3) accept and cede reinsurance;

15 (4) appoint, with the permission of the director of insurance,
16 service companies to perform its duties under this chapter; and

17 (5) adopt regulations, subject to approval by the director of
18 insurance, necessary for carrying out the provisions of this chapter.

19 (b) The association shall establish standards of practice for
20 health care providers in the state and procedures to review the practices
21 of insureds against whom claims have been made. If the review indicates
22 that an insured has not met the standards of the association, the associ-
23 ation may notify the professional organization to which the insured
24 belongs. The association may also recommend not to reinsure the insured
25 after the policy in force expires.

26 Sec. 21.67.040. OPERATING PLAN. (a) The association shall
27 develop an operating plan to carry out the provisions of this chapter,
28 which is subject to the approval of the director of insurance. In
29 developing the plan the association shall receive input from health care

1 providers in the state and from representatives of the public.

2 (b) The operating plan shall provide for fair, prompt, and
3 economically self-supporting health care liability insurance and shall
4 include

5 (1) a preliminary assessment to all members for the expenses
6 necessary to begin operation;

7 (2) underwriting standards;

8 (3) appointment of servicing carriers;

9 (4) rating plans and classifications established on an actu-
10 arily sound basis and calculated to be self supporting;

11 (5) other provisions found necessary by the association.

12 (c) The association shall submit the operating plan to the director
13 of insurance for approval within 60 days after the director of insurance
14 establishes the association under sec. 10 of this chapter.

15 (d) The operating plan may be revised by an affirmative vote of a
16 majority of the directors and concurrence of the director of insurance.

17 Sec. 21.67.050. PROFITS AND DEFICITS. (a) Profits made by the
18 association shall be added to the reserves of the association.

19 (b) A deficit sustained by the association in any one year shall
20 be recouped by rate increases applicable prospectively.

21 Sec. 21.67.060. ANNUAL STATEMENTS. The association shall file an
22 annual statement to the director of insurance before March 16 reporting
23 its operations of the preceding year.

24 Sec. 21.67.070. PERSONS COVERED. (a) Any health care provider
25 licensed by the appropriate licensing agency of the state may apply to
26 the association for health care liability insurance.

27 (b) If the applicant meets the underwriting standards of the asso-
28 ciation as provided in the operating plan and there is no unpaid, uncon-
29 tested premium due from the applicant for prior insurance, the associa-

1 tion on receipt of the premium shall issue or cause to be issued a
2 policy of health care liability insurance for a term of one year.

3 Sec. 21.67.080. HEALTH CARE LIABILITY POLICIES. (a) The associ-
4 ation shall offer policies on both a claims made and occurrence basis.

5 (b) Policies issued by the association shall provide minimum
6 coverage to insureds in an amount of not less than \$100,000 for each
7 occurrence and \$300,000 for all occurrences in any one policy year for
8 the protection of persons who are legally entitled to recover damages
9 from the insured for errors, omissions or neglect in the performance of
10 the insured's professional services. The association may establish
11 minimum levels of coverage higher than these limits for professional
12 practice involving a high degree of risk.

13 (c) Policies issued on behalf of the association may not be can-
14 celled during the term of coverage.

15 Sec. 21.67.090. APPEALS AND JUDICIAL REVIEW. (a) An applicant to
16 the association, a person insured under this chapter, or a member may
17 appeal to the director of insurance within 30 days of any ruling,
18 decision, or action by or on behalf of the association.

19 (b) All orders of the director of insurance under this chapter are
20 subject to judicial review.

21 Sec. 21.67.100. DEFINITIONS. In this chapter

22 (1) "association" means the underwriting group established
23 under the provisions of this chapter;

24 (2) "director" means a member of the board of directors of
25 the association;

26 (3) "director of insurance" means the director of the division
27 of insurance in the Department of Commerce;

28 (4) "person" means an individual, hospital, clinic or other
29 institution providing health care services;

1 (5) "health care liability insurance" means insurance against
2 the legal liability of the insured for loss, damage, or expense incident
3 to a claim arising out of the death or injury of a person as a result of
4 negligence in rendering professional service by a health care provider;

5 (6) "health care provider" means a physician licensed under
6 AS 08.64, a nurse licensed under AS 08.68, an institution licensed under
7 AS 18.20, and a dentist licensed under AS 08.36;

8 (7) "net direct premiums" means gross direct premiums written
9 on casualty and disability insurance less return premiums or the unused
10 or unabsorbed portions of premium deposits.

11 * Sec. 2. This Act takes effect July 1, 1975.
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