

Original sponsor: Rodey and Kerttula

Offered: 6/1/75  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 361

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. The director of  
12 the division of insurance shall establish by regulation a joint under-  
13 writing association to provide health care liability insurance to health  
14 care providers in the state on a self-supporting basis. Membership of  
15 the association consists of all insurers authorized to write and engaged  
16 in writing casualty insurance, as defined in AS 21.12.070, on a direct  
17 basis in the state. Membership in the association is a condition of  
18 transacting casualty insurance in the state.

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

28 (b) The association shall be governed by a board of three  
29 directors, who are elected by cumulative voting of the members of the

1 association; the votes are weighted according to each member's partici-  
2 pation the year of the election. The directors serve terms of two years.  
3 The directors on the first board shall be elected at a meeting of  
4 members at a time and place designated by the director of insurance.

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

7 (1) issue or authorize the issuance of policies of insurance  
8 to applicants;

9 (2) underwrite the insurance policies issued and adjust and  
10 pay losses on the policies;

11 (3) accept and cede reinsurance;

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

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

16 (b) The association shall establish standards of practice for  
17 health care providers in the state and procedures to review the practices  
18 of insureds against whom claims have been made. If the review indicates  
19 that an insured has not met the standards of the association, the associ-  
20 ation may notify the professional organization to which the insured  
21 belongs.

22 Sec. 21.67.040. OPERATING PLAN. (a) The association shall  
23 develop an operating plan to carry out the provisions of this chapter,  
24 which is subject to the approval of the director of insurance. In  
25 developing the plan the association shall receive input from health care  
26 providers in the state and from representatives of the public.

27 (b) The operating plan shall provide for fair, prompt, and  
28 economically self-supporting health care liability insurance and shall  
29 include

- 1 (1) a preliminary assessment to all members for the expenses  
2 necessary to begin operation;
- 3 (2) underwriting standards;
- 4 (3) appointment of servicing carriers;
- 5 (4) rating plans and classifications established on an actu-  
6 arily sound basis and calculated to be self supporting;
- 7 (5) other provisions found necessary by the association.

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

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

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

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

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

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

23 (b) If the applicant meets the underwriting standards of the asso-  
24 ciation as provided in the operating plan and there is no unpaid, uncon-  
25 tested premium due from the applicant for prior insurance, the associa-  
26 tion on receipt of the premium shall issue or cause to be issued a  
27 policy of health care liability insurance for a term of one year.

28 (c) In no event may the association deny insurance to a health care  
29 provider without the concurrence of the director of the division of

1 insurance.

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

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

12 (c) No policy issued on behalf of the association may be cancelled  
13 during the term of coverage without the concurrence of the director of  
14 the division of insurance.

15 Sec. 21.67.090. APPEALS AND JUDICIAL REVIEW. (a) An applicant to  
16 the association, an insured under this chapter, or a member may appeal  
17 to the director of insurance within 30 days of any ruling, decision, or  
18 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) "health care liability insurance" means insurance against  
29 the legal liability of the insured for loss, damage, or expense incident

1 to a claim arising out of the death or injury of a person as a result of  
2 negligence in rendering professional service by a health care provider;

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

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

9 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
10 070(c).

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