

Original sponsors: Colletta, Kerttula,
Rodey and Huber by request

Offered: 5/17/78
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 326 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to medical malpractice; and providing
7 for an effective date."

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

9 * Section 1. PURPOSE. The purpose of this Act is to insure that no
10 person suffers denial or revocation of licensure for failure to procure
11 insurance from the Medical Indemnity Corporation of Alaska as required by ch.
12 102 SLA 1976. This Act is for the further purpose of insuring that the
13 coverage of occurrence policies issued by the Medical Indemnity Corporation
14 of Alaska before the effective date of this Act continues to extend to claims
15 arising out of occurrences covered by policies issued before the effective
16 date of this Act, but that (1) the Medical Indemnity Corporation of Alaska
17 need not be liable on an occurrence basis for any claims arising under poli-
18 cies newly issued or renewed after the effective date of this Act; (2) per-
19 sons who procured coverage from the Medical Indemnity Corporation of Alaska
20 before the effective date of this Act neither be allowed to cancel the
21 coverage procured nor evade the requirement of payment of premiums for that
22 coverage; and (3) persons who did not procure retroactive coverage from the
23 Medical Indemnity Corporation of Alaska by January 1, 1977 are not entitled
24 to, nor may the Medical Indemnity Corporation of Alaska issue, that coverage.
25 This Act is for the further purpose of assuring that the Medical Indemnity
26 Corporation of Alaska remains a viable and competitive market for malpractice
27 insurance. The purpose of the amendment made in sec. 22 of this Act and of
28 the amendments of the provisions of AS 8 in this Act is to assure that medi-
29 cal care is not denied to any person by virtue of his failure or refusal to

1 enter into an agreement with a health care provider in the medical, dental
2 and related professions to submit to arbitration claims arising under health
3 care or treatment provided.

4 * Sec. 2. AS 21.78.050 is amended by adding a new paragraph to read:

5 (3) is the Medical Indemnity Corporation of Alaska, and the
6 director has ordered termination of the business of the corporation in
7 accordance with AS 21.88.055.

8 * Sec. 3. AS 21.78.100(b) is amended to read:

9 (b) The director may apply for and secure an order dissolving the
10 corporate existence of a domestic insurer, except the Medical Indemnity
11 Corporation of Alaska, upon his application for an order of liquidation
12 of the insurer or at any time after the order has been granted.

13 * Sec. 4. AS 21.88.030(a)(1) is repealed and re-enacted to read:

14 (1) four physicians licensed in the state and engaged in
15 private practice in the state; no more than two of the physicians shall
16 practice or live in a municipality having a population of more than
17 100,000, and two of the physicians must be indemnified against loss by
18 reason of liability for an act or omission in the delivery of profes-
19 sional health care by the Medical Indemnity Corporation of Alaska;

20 * Sec. 5. AS 21.88.030 is amended by adding a new subsection to read:

21 (f) No governor, officer, or employee or former governor, officer,
22 or employee of the corporation is liable for damages or other relief in
23 any action by reason of his actions or inactions as a governor, officer,
24 or employee of the corporation, or by reason of the actions or inactions
25 of the corporation, its board of governors, officers or employees unless
26 the person acts with actual knowledge that he was acting outside the
27 scope of his authority, or unless at the time he was acting for a pur-
28 pose which he knew was not in the best interests of the corporation, or
29 with respect to any criminal action he had actual knowledge or should

1 have known his action was unlawful. If a claim or action is brought
2 against a person entitled to the protection of this subsection, the
3 claim or action shall be defended by the state. If it is established
4 that the person was acting with actual knowledge that he was acting
5 outside the scope of his authority, or at the time was acting for a
6 purpose which he knew was not in the best interests of the corporation,
7 or with respect to any criminal action he had actual knowledge or should
8 have known his action was unlawful, then he shall reimburse the state
9 for the cost to the state of his defense.

10 * Sec. 6. AS 21.88.050(a)(1) is amended to read:

11 (1) in the form approved by the director, issue to all physi-
12 cians and hospitals who are found to be acceptable risks under standards
13 developed under (8) of this subsection, and who pay the premiums for it
14 a contract or contracts indemnifying physicians and hospitals and their
15 employees who are health care providers against loss by reason of lia-
16 bility for covered claims for an act or omission in the delivery of
17 professional health care in this state [PROFESSIONAL SERVICES RENDERED
18 IN THE STATE ON AN OCCURRENCE BASIS], and agreeing to tender on behalf
19 of the physicians and hospitals and their employees who are health care
20 providers a defense to [IN] a covered claim in a proceeding brought
21 under AS 09.55.530 - 09.55.560; the minimum limit of liability issued to
22 physicians shall be \$200,000 per occurrence and \$600,000 aggregate
23 liability per year, and the minimum limit of liability provided in
24 contracts issued to hospitals shall be \$200,000 per occurrence and an
25 annual aggregate liability of \$1,000,000 minimum plus an additional
26 \$20,000 per bed for each occupied bed over 50 [SHALL BE NO LESS THAN THE
27 MINIMUM LIABILITY COVERAGE REQUIREMENTS TO BE MAINTAINED UNDER AS 08.-
28 64.215 AND AS 18.20.045]; the contract shall cover the defense against
29 but need not indemnify liability [A CLAIM] for punitive damages arising

1 from a covered claim; at the option of the physician or hospital and for
2 an additional premium the contract may cover claims against the physi-
3 cian or hospital that arise out of professional services performed by
4 the physician or hospital for any period after December 31, 1974 if the
5 coverage is issued before January 1, 1977 except that coverage will not
6 be provided for a claim already filed or of which the physician or
7 hospital had or reasonably should have had notice at the time the retro-
8 active insurance was purchased;

9 * Sec. 7. AS 21.88.050(a) is amended by adding a new paragraph to read:

10 (8) establish standards for the acceptability of risks; in
11 establishing these standards the corporation may consider individual
12 risk selection factors, but may not exclude a physician based only on
13 the classification of the physician.

14 * Sec. 8. AS 21.88.050(b)(2) is repealed and re-enacted to read:

15 (2) negotiate for and procure reinsurance from private casu-
16 alty insurers or reinsurers for any and all liability incurred by con-
17 tracts issued by it;

18 * Sec. 9. AS 21.88.050(b) is amended by adding new paragraphs to read:

19 (10) for an additional premium provide coverage to physicians
20 and hospitals for liability in excess of the minimum limits of liability
21 coverage required to be maintained under (a)(1) of this section, but
22 limited to \$1,000,000 for physicians and \$5,000,000 for hospitals.

23 (11) in a form approved by the director and for an additional
24 premium determined under sec. 80 of this chapter, issue endorsements
25 which provide indemnity for claims not yet reported which arise out of
26 professional services rendered during a period of continuous coverage
27 under the originally issued contract, to physicians and hospitals who
28 pay the premium for it and who are terminating their original covered
29 claims contract with the corporation for a period of not less than one

1 year;

2 * Sec. 10. AS 21.88.050(b) is amended by adding a new paragraph to read:

3 (12) subject to specific approval by the director, extend
4 coverage to corporate entities which

5 (A) own an establishment licensed as a hospital and in-
6 sured by the corporation;

7 (B) provide health care through physicians who are the
8 corporation's sole stockholders, and all of whom are insured by the
9 corporation; or

10 (C) are nonprofit organizations formed principally for
11 the purpose of providing health care under the direct supervision
12 of employed physicians, provided all the physicians are insured by
13 the corporation.

14 * Sec. 11. AS 21.88 is amended by adding a new section to read:

15 Sec. 21.88.055. TERMINATION. (a) If at any time the corporation
16 posts written premiums for two consecutive years of less than 35 per
17 cent of all premiums written in Alaska for physicians' medical mal-
18 practice insurance or posts written premiums for one calendar year of
19 less than 20 per cent of all premiums written in Alaska for physicians'
20 medical malpractice, the director may hold a public hearing in accor-
21 dance with AS 21.06.180 - 21.06.230 to determine whether the business of
22 the corporation should be terminated.

23 (b) Upon the effective date of an order of termination issued by
24 the director under (a) and (d) of this section, the terms of the
25 governors appointed under sec. 30 of this chapter expire, and the cor-
26 poration, its governors, officers and employees are relieved of all
27 further liabilities for all their obligations to the creditors and
28 policyholders of the corporation, and the business of the corporation
29 shall be liquidated according to ch. 78 of this title.

1 (c) At any time after termination of the corporation by the
2 director, the director may, after public hearing held in accordance with
3 AS 21.06.180 - 21.06.230 and (d) of this section, order reactivation of
4 the corporation if the director finds that malpractice insurance is
5 unavailable for physicians and hospitals on the voluntary market. The
6 business of the corporation shall commence operation upon appointment by
7 the governor of new governors to the board.

8 (d) In determining whether to terminate or reactivate the
9 business of the corporation the director shall consider the following:

10 (1) the level of expected premiums and losses for continued
11 operation;

12 (2) the requirement for state funds to support continued
13 operation;

14 (3) the availability of alternative markets for coverage to a
15 substantial majority of physicians and hospitals in the state;

16 (4) the costs of continued operation of the corporation;

17 (5) the impact that the continued operation of the corpora-
18 tion will have on rates charged for coverage by the corporation or by
19 alternative markets; or

20 (6) the expected number of physicians or hospitals who would
21 participate if the operations were continued.

22 (e) If after public hearing held in accordance with (a) and (c) of
23 this section the director determines that continuing the business of the
24 corporation would result in substantial underwriting loss unless ex-
25 cessive premiums are charged to participating physicians and hospitals,
26 the director may order termination of the corporation.

27 * Sec. 12. AS 21.88.060 is amended by adding a new subsection to read:

28 (b) The corporation is exempt from taxation under this section for
29 a period of five years starting from July 1, 1978.

1 * Sec. 13. AS 21.88.080(4) and (5) are amended to read:

2 (4) rates may not be excessive; rates are excessive if, after
3 a period of time and with respect to an amount of gross premium which is
4 [ARE] actuarially credible, the premiums exceed losses incurred by the
5 corporation, including losses paid, reserves for covered claims reported
6 and unpaid, reserves for covered claims incurred during the policy
7 period and not reported, [PROVIDED THAT RESERVES FOR CLAIMS INCURRED
8 DURING THE POLICY PERIOD AND REASONABLY EXPECTED TO BE REPORTED AFTER
9 THREE YEARS AFTER THE INCIDENT MAY BE INCLUDED ON A DIFFERENT BASIS DUE
10 TO THE ADDITIONAL FINANCIAL FLEXIBILITY PROVIDED BY THE CORPORATION,]
11 and reasonable expenses for the operation of the corporation;

12 (5) rates shall not be inadequate; rates are inadequate if,
13 based on available actuarial data, the premiums to be paid by the health
14 care providers are or may reasonably be expected to be insufficient to
15 pay for losses incurred by the corporation, including covered claims
16 paid, reserves for covered claims reported and unpaid, reserves for
17 covered claims incurred during the policy period and not reported,
18 [PROVIDED THAT RESERVES FOR CLAIMS INCURRED DURING THE POLICY PERIOD AND
19 REASONABLY EXPECTED TO BE REPORTED AFTER THREE YEARS AFTER THE INCIDENT
20 MAY BE INCLUDED ON A DIFFERENT BASIS DUE TO THE ADDITIONAL FINANCIAL
21 FLEXIBILITY PROVIDED BY THE CORPORATION,] and reasonable expenses for
22 the operation of the corporation;

23 * Sec. 14. AS 21.88.070 is amended to read:

24 Sec. 21.88.070. STATISTICS. The corporation shall collect, main-
25 tain and report information concerning claims against health care pro-
26 viders which it insures. The information shall be on forms prescribed
27 by the director, and shall be sufficient to enable a proper determina-
28 tion of losses for rate making and to identify causes and sources of
29 loss for loss control. At least annually the corporation shall report

1 to the director the number and amount of claims filed, reserved, paid,
2 settled and adjudicated during the year, the premiums paid to and the
3 expenses incurred by the corporation during the year. This report shall
4 be available to the public. The director may require that supplemental
5 reports include the names of insured health care providers and the
6 claimants; however, no reports which become available to the public may
7 include the names of health care providers or claimants or information
8 that will permit by inference the identity of specific health care
9 providers or claimants. All statistics including the supplemental re-
10 ports shall be made available to the State Medical Board [APPROPRIATE
11 LICENSING BOARD OR AGENCY].

12 * Sec. 15. AS 21.88.080 is amended by adding new paragraphs to read:

13 (15) if the collected premiums of the corporation for any
14 given year are less than the incurred claims, claim expense, under-
15 writing expense, reserves for that year and provision for repayment of
16 any loans, the corporation may, subject to the prior approval of the
17 director, levy an assessment upon the insureds who held policies during
18 that year; the assessment, which may be made in periodic installments,
19 shall be made within three years and may not exceed 150 per cent of the
20 physician's premium for that year; the termination of any policy does
21 not relieve the insured of contingent liability for his proportionate
22 share of the obligations to the corporation which accrued while the
23 policy was in force;

24 (16) if the collected premiums of the corporation for any
25 given year exceed its incurred claim expense, underwriting expense,
26 reserves for that year and provision for repayment of any loan, the
27 corporation may, subject to the prior approval of the director, appor-
28 tion and pay or credit its insureds who held policies during that year;
29 a payment or credit shall be proportionate to the insured's earned

1 premium for that year.

2 (17) if the corporation develops a surplus of assets over all
3 liabilities, including the repayment of any loan provision, which is at
4 least equal to the minimum capital stock required of a domestic stock
5 insurer authorized to transact like kinds of insurance, upon applica-
6 tion, the director shall issue his certificate authorizing the corpora-
7 tion to extinguish the assessment provision under (15) of this section
8 to all insured with policies then in force, and to omit provisions
9 imposing the assessment under (15) of this section in all policies
10 delivered or issued for delivery for as long as all the surplus remains
11 unimpaired; upon impairment of the surplus, the director shall immedi-
12 ately revoke the certificate; however, a policy then in force, and for
13 the remainder of the period for which the premium has been paid, is not
14 subject to the revocation of the assessment provision under (15) of this
15 section, but after revocation no policy may be issued or renewed without
16 providing for an assessment of the insured under (15) of this section.

17 * Sec. 16. AS 21.88 is amended by adding a new section to read:

18 Sec. 21.88.095. TRANSFER OF CORPORATE ASSETS AND LIABILITIES. (a)
19 The corporation may, subject to the prior approval of the director,
20 transfer its assets and liabilities to a company which meets all of the
21 following conditions:

22 (1) the company possesses a valid certificate of authority to
23 transact casualty insurance business in the state; in evaluating the
24 capital and surplus of the company for qualification for a certificate
25 of authority, the value of the assets and liabilities transferred by the
26 corporation may not be considered;

27 (2) the company pays to the corporation the full value of any
28 surplus in the corporation not represented by any unrepaid proceeds of
29 loans by the loan fund to the corporation;

1 (3) the company executes a complete reinsurance and hold
2 harmless agreement in a form approved by the director covering all of
3 the obligations of the corporation to its creditors and policyholders;
4 and

5 (4) the company executes modifications of loan agreements
6 with the loan fund by which the company agrees

7 (A) to assume the obligations;

8 (B) that, if at any time the company writes less than
9 the premium levels provided in 55(a) of this chapter, the director
10 may determine that the loan provisions shall be modified to provide
11 a scheduled amortization repayment of the principal over a period
12 not to exceed 10 years and at an interest rate of four points above
13 the federal discount rate, as that rate is adjusted from time to
14 time; and

15 (C) that the provision for repayment provided in sec.
16 210(b)(1) of this chapter shall be modified to provide for annual
17 installments of at least 25 per cent of the excess of premium and
18 investment income collected over the total of claims, reserves and
19 expenses on the Alaska medical malpractice book of business or 25
20 per cent of the excess of premiums and investment income collected
21 over the total of claims, reserves and expenses on the corpora-
22 tion's total book of business, whichever is greater;

23 (5) the company meets such other requirements as the director
24 may reasonably require to protect the interests of the state, the health
25 care provider insureds, the involved company, and the public;

26 (6) the company provides the board of governors with a writ-
27 ten statement from the director that the company qualifies under (1) -
28 (5) of this subsection.

29 (b) If and while the company to which the assets and liabilities

1 of the corporation are transferred in the manner provided in (a) of this
2 section continues to write premiums in excess of the levels provided in
3 sec. 55 of this chapter, it shall enjoy the benefit of the following
4 provisions:

5 (1) the company is entitled to carry forward and offset
6 against its premium tax obligation to the state the amount by which the
7 aggregate claims paid on reinsurance assumed under (a)(3) of this sec-
8 tion exceeds aggregate reserves on the same business established at the
9 date of the reinsurance agreement; and

10 (2) the obligation to repay to the loan fund loans assumed by
11 the company at the time of transfer of the assets and liabilities of the
12 corporation need not be shown as a liability on the books of the cor-
13 poration.

14 * Sec. 17. AS 21.88.210(b)(1) is amended to read:

15 (1) to provide surplus in respect to policyholders which may
16 not exceed a total of \$3,000,000 outstanding at any time; these obliga-
17 tions shall be subordinated to all other obligations of the corporation;
18 loans made under this paragraph shall be repaid to the fund in annual
19 installments of at least 25 per cent of the excess of premiums collected
20 over the total of claims, reserves, expenses, and assessments made by
21 the association, if any; interest shall be paid on the outstanding
22 balance at a rate equal to seven per cent a year [FOUR PERCENTAGE POINTS
23 ABOVE THE ANNUAL RATE CHARGED MEMBER BANKS FOR ADVANCES BY THE 12TH
24 FEDERAL RESERVE DISTRICT];

25 * Sec. 18. AS 21.88.210(b)(2) is amended to read:

26 (2) if the director determines that the corporation is unable
27 to procure reinsurance from a private casualty insurer or reinsurer for
28 any liability incurred by contracts issued by it [ADOPTS THE APPROACH OF
29 SEC. 50(a)(3)(A) OF THIS CHAPTER], additional loans up to an aggregate

1 of \$6,000,000 when taken together with loans made under (1) of this
2 subsection to compensate for fluctuations in loss experience; loans made
3 under this paragraph shall be in parity with all other obligations of
4 the corporation except that they shall be subordinated to obligations of
5 policyholders and claimants for indemnity of loss; these loans shall be
6 repaid within five years at an annual interest rate of six per cent.

7 * Sec. 19. AS 21.88.900(4) is repealed and re-enacted to read:

8 (4) "health care provider" means a chiropractor licensed
9 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
10 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
11 optician licensed under AS 08.71; an optometrist licensed under AS
12 08.72; a pharmacist licensed under AS 08.80; a physical therapist li-
13 censed under AS 08.84; a physician licensed under AS 08.64; a podia-
14 trist; a psychologist and a psychological associate licensed under AS
15 08.86; and a hospital as defined in AS 18.20.130, including a govern-
16 mentally owned or operated hospital; a corporate entity covered under AS
17 21.88.050(b)(12); and an employee of a health care provider acting
18 within the course and scope of his employment;

19 * Sec. 20. AS 21.88.900 is amended by adding new paragraphs to read:

20 (16) "continuous coverage" means one or more successive policy
21 periods which is uninterrupted by cancellation or failure to renew for
22 any reason;

23 (17) "covered claim" means

24 (A) a claim by an injured patient reported to the cor-
25 poration during the period of continuous coverage by the corpora-
26 tion of the insured health care provider for an act or omission in
27 the delivery of health care services during the same period of
28 continuous coverage; and

29 (B) additional claims as defined in the policy, with the

1 prior approval of the director, and which are reported within
2 specified periods after the expiration of the policy.

3 * Sec. 21. (a) The coverage obligations and duties of the insured under
4 policies issued by the Medical Indemnity Corporation of Alaska before the
5 effective date of this Act may not be breached without the consent of the
6 Medical Indemnity Corporation of Alaska and the director of the division of
7 insurance.

8 (b) All policies issued by the Medical Indemnity Corporation of Alaska
9 and in force on the effective date of this Act are terminated as of the first
10 annual renewal of the in-force policy after the effective date of this Act.
11 A person purchasing a policy for any term beginning after the effective date
12 of this Act shall be issued a policy to cover only "covered claims" as de-
13 fined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after
14 the effective date of this Act.

15 * Sec. 22. AS 09.55.535(a) is amended to read:

16 (a) A patient and any health care provider may execute an agree-
17 ment to submit to arbitration any dispute, controversy, or issue arising
18 out of care or treatment by the health care provider during the period
19 that the agreement is in force or that has already arisen between the
20 parties. Execution of an agreement under this subsection by a patient
21 may not be made a prerequisite to receipt of care or treatment by the
22 health care provider.

23 * Sec. 23. AS 09.55.536(a) is amended to read:

24 (a) In an action for damages due to personal injury or death based
25 upon the provision of professional services by a health care provider
26 when the parties have not agreed to arbitration of the claim under sec.
27 535 of this chapter, the court shall appoint within 20 days after filing
28 of answer to a summons and complaint a three-person expert advisory
29 panel [UNLESS THE COURT DECIDES THAT AN EXPERT ADVISORY OPINION IS NOT

1 NECESSARY FOR A DECISION IN THE CASE]. When the action is filed the
2 court shall, by order, determine the professions or specialties to be
3 represented on the expert advisory panel, giving the parties the oppor-
4 tunity to object or make suggestions.

5 * Sec. 24. AS 09.55.560(1) is amended to read:

6 (1) "health care provider" means a chiropractor licensed
7 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
8 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
9 optician licensed under AS 08.71; an optometrist licensed under AS
10 08.72; a pharmacist licensed under AS 08.80; a physical therapist li-
11 censed under AS 08.84; a physician licensed under AS 08.64; a podia-
12 trist; a psychologist and a psychological associate licensed under AS
13 08.86; and a hospital as defined in AS 18.20.130, including a govern-
14 mentally owned or operated hospital; a corporate entity covered under AS
15 21.88.050(b)(12); and an employee of a health care provider acting
16 within the course and scope of his employment;

17 * Sec. 25. AS 08.20.170(a)(3) is amended to read:

18 (3) unprofessional conduct, including but not limited to the
19 denial of care or treatment to a patient or person seeking assistance
20 from the chiropractor if the sole reason for the denial is the failure
21 or refusal of the patient or person seeking assistance to execute an
22 agreement to arbitrate a dispute, controversy, or issue arising out of
23 the care or treatment, as provided in AS 09.55.535(a);

24 * Sec. 26. AS 08.36.310 is amended by adding a new paragraph to read:

25 (28) denies care or treatment to a patient or person seeking
26 assistance from the dentist if the sole reason for the denial is the
27 failure or refusal of the patient or person seeking assistance to exe-
28 cute an agreement to arbitrate a dispute, controversy, or issue arising
29 out of the care or treatment, as provided in AS 09.55.535(a).

1 * Sec. 27. AS 08.64.380(3)(A) is amended to read:

2 (A) a violation of the provisions of AS 11.15.060 [OR
3 REGULATIONS LAWFULLY ADOPTED BY THE STATE MEDICAL BOARD CONCERNING
4 ABORTION PROCEDURES AND PRACTICE];

5 * Sec. 28. AS 08.64.380(3)(G) is amended to read:

6 (G) violating any code of ethics adopted by regulation
7 by the State Medical Board [THE PRINCIPLES OF MEDICAL ETHICS OF THE
8 AMERICAN MEDICAL ASSOCIATION AND OF THE ALASKA STATE MEDICAL ASSO-
9 CIATION];

10 * Sec. 29. AS 08.64.380(3) is amended by adding a new subparagraph to
11 read:

12 (H) denial of care or treatment to a patient or person
13 seeking assistance from the physician if the sole reason for the
14 denial is the failure or refusal of the patient to execute an
15 agreement to arbitrate a dispute, controversy, or issue arising out
16 of the care or treatment, as provided in AS 09.55.535(a).

17 * Sec. 30. AS 08.68.270 is amended by adding a new paragraph to read:

18 (11) denies care or treatment to a patient or person seeking
19 assistance if the sole reason for the denial is the failure or refusal
20 of the patient or person seeking assistance to execute an agreement to
21 arbitrate a dispute, controversy, or issue arising out of the care or
22 treatment, as provided in AS 09.55.535(a).

23 * Sec. 31. AS 08.71.170 is amended by adding a new paragraph to read:

24 (15) denies care or treatment to a patient or person seeking
25 assistance from the optician if the sole reason for the denial is the
26 failure or refusal of the patient to execute an agreement to arbitrate a
27 dispute, controversy, or issue arising out of the care or treatment, as
28 provided in AS 09.55.535(a).

29 * Sec. 32. AS 08.72.240 is amended by adding a new paragraph to read:

1 (4) denies care or treatment to a patient or person seeking
2 assistance from the optometrist if the sole reason for the denial is the
3 failure or refusal of the patient or person seeking assistance to exe-
4 cute an agreement to arbitrate a dispute, controversy, or issue arising
5 out of the care or treatment, as provided in AS 09.55.535(a).

6 * Sec. 33. AS 08.80.260 is amended by adding a new paragraph to read:

7 (10) denial of care or treatment to a patient or person seek-
8 ing assistance from the pharmacist if the sole reason for the denial is
9 the failure or refusal of the patient or person seeking assistance to
10 execute an agreement to arbitrate a dispute, controversy or issue
11 arising out of the care or treatment, as provided in AS 09.55.535(a).

12 * Sec. 34. AS 08.86.070 is amended by adding a new subsection to read:

13 (b) The board may, after hearing, suspend or revoke the license of
14 a licensed psychologist or psychological associate if he denies care or
15 treatment to a patient or person seeking assistance from the psychol-
16 ogist or psychological associate and the sole reason for the denial is
17 the failure or refusal of the patient or person seeking assistance to
18 execute an agreement to arbitrate a dispute, controversy, or issue
19 arising out of the care or treatment, as provided in AS 09.55.535(a).

20 * Sec. 35. AS 18.23 is amended by adding a new section to read:

21 Sec. 18.23.065. PATIENT ACCESS TO RECORDS. Notwithstanding the
22 provisions of this chapter or any other law, a patient is entitled to
23 inspect and copy any records developed or maintained by a health care
24 provider or other person pertaining to the health care rendered to a
25 patient.

26 * Sec. 36. AS 18.23.070(3) is amended to read:

27 (3) "health care provider" means a chiropractor licensed
28 under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist
29 licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing

1 optician licensed under AS 08.71; an optometrist licensed under AS
2 08.72; a pharmacist licensed under AS 08.80; a physical therapist regis-
3 tered under AS 08.84; a physician licensed under AS 08.64; a podiatrist;
4 a psychologist and a psychological associate licensed under AS 08.86;
5 and a hospital as defined in AS 18.20.130, including a governmentally
6 owned or operated hospital; a corporate entity covered under AS 21.88.-
7 050(b)(12); and an employee of a health care provider acting within the
8 course and scope of his employment;

9 * Sec. 37. AS 18.23.070(5) is amended to read:

10 (5) "review organization" means the State Medical Board
11 established by AS 08.64.010 and a hospital governing body or a committee
12 whose membership is limited to health care providers and administrative
13 staff, except where otherwise provided for by state or federal law, and
14 which is established by a hospital, by a clinic, by one or more state or
15 local associations of health care providers, by an organization of
16 health care providers from a particular area or medical institution, or
17 by a professional standards review organization established under 42
18 U.S.C., sec. 1320c-1 et seq., to gather and review information relating
19 to the care and treatment of patients for the purposes of

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

22 (B) reducing morbidity or mortality;

23 (C) obtaining and disseminating statistics and informa-
24 tion relative to the treatment and prevention of diseases, illness
25 and injuries;

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

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

1 (F) reviewing the quality or cost of health care ser-
2 vices provided to enrollees of health maintenance organizations;

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

5 (H) reviewing, ruling on, or advising on controversies,
6 disputes or questions between

7 (i) a health insurance carrier or health mainte-
8 nance organization and one or more of its insured or enrol-
9 lees;

10 (ii) a professional licensing board, acting under
11 its powers of discipline or license revocation or suspension,
12 and a health care provider licensed by it when the matter is
13 referred to a review organization by the professional li-
14 censing board;

15 (iii) a health care provider and his patients con-
16 cerning diagnosis, treatment or care, or a charge or fee;

17 (iv) a health care provider and a health insurance
18 carrier or health maintenance organization concerning a charge
19 or fee for health care services provided to an insured or
20 enrollee; or

21 (v) a health care provider or his patients and the
22 federal or a state or local government, or an agency of the
23 federal or a state or local government;

24 (I) acting on the recommendation of a credential review
25 committee or a grievance committee.

26 * Sec. 38. AS 21.39 is amended by adding a new section to read:

27 Sec. 21.39.175. STATISTICS. Any insurer providing malpractice
28 coverage for health care providers shall collect, maintain and report
29 information concerning claims against health care providers which it

1 insures. The information shall be on forms prescribed by the director,
2 and shall be sufficient to enable a proper determination of losses for
3 rate making and to identify causes and sources of loss for loss control.
4 At least annually the insurer shall report to the director the number
5 and amount of claims filed, reserved, paid, settled and adjudicated
6 during the year, the premiums paid to and the expenses incurred by the
7 corporation during the year. This report shall be available to the
8 public. The director may require that supplemental reports include the
9 names of insured health care providers and the claimants; however, no
10 reports which become available to the public may include the names of
11 health care providers or claimants or information that will permit by
12 inference the identity of specific health care providers or claimants.
13 All statistics, including the supplemental reports, shall be made avail-
14 able to the State Medical Board.

15 * Sec. 39. The following laws are repealed: AS 08.20.115; AS 08.32.015;
16 AS 08.36.115; AS 08.64.215; AS 08.68.165; AS 08.71.085; AS 08.72.115; AS
17 08.80.115; AS 08.84.035; AS 08.86.125; AS 18.20.045; AS 21.18.090(5) and (6);
18 AS 21.88.050(a)(2), (3) and (7), 21.88.080(1), (2) and (14), 21.88.110 -
19 21.88.180, and 21.88.900(1) are repealed.

20 * Sec. 40. AS 08.64.380(3)(D) is repealed.

21 * Sec. 41. Sections 5, 10, 19, 24, 36 and 39 of this Act are retroactive
22 to June 28, 1976.

23 * Sec. 42. Sections 2, 3, 4, 6, 7, 8, 9, 11, 13, 14, 15, 16, 18, 20, 21,
24 22, 25, 26 and 29 - 34 of this Act take effect July 1, 1978.

25 * Sec. 43. Sections 1, 12, 17, 23, 27, 28, 35, 37, 38, 40 and 41 of this
26 Act take effect immediately in accordance with AS 01.10.070(c).