

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 336 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to medical malpractice advisory  
7 panels and amending Alaska Rule of Civil Procedure  
8 72.1."

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

10 \* Section 1. AS 09.55.536(a) is amended to read:

11 (a) In an action for damages due to personal injury or death  
12 based upon the provision of professional services by a health care  
13 provider when the parties have not agreed to arbitration of the claim  
14 under AS 09.55.535, the court shall appoint within 20 days after  
15 filing of answer to a summons and complaint a five-person [THREE-  
16 PERSON] expert advisory panel unless the court decides that an expert  
17 advisory opinion is not necessary for a decision in the case. When  
18 the action is filed the court shall, by order, determine the profes-  
19 sions or specialties to be represented on the expert advisory panel,  
20 giving the parties the opportunity to object or make suggestions.  
21 Three members of the panel shall be persons who are not health care  
22 providers.

23 \* Sec. 2. AS 09.55.536(b) is repealed and reenacted to read:

24 (b) The expert advisory panel shall consider only evidence  
25 presented by the parties. Under the applicable rules of the Alaska  
26 Rules of Civil Procedure, a party may perform discovery, obtain the  
27 attendance of witnesses, examine or cross-examine witnesses, obtain a  
28 physical examination of the injured person if alive, and obtain the  
29 production of all relevant hospital, medical, or other records or

1 materials relating to the health care provided to the injured person.  
2 The parties may attend all hearings of the panel. The panel shall  
3 maintain a record of testimony or oral statements of witnesses, and  
4 shall keep copies of all written statements it receives.

5 \* Sec. 3. AS 09.55.536(e) is repealed and reenacted to read:

6 (e) The report of the panel is advisory only and may not be  
7 admitted as evidence except the report may be admitted as evidence in  
8 determining an award of costs or attorney fees. The members of the  
9 panel may not be examined as witnesses on the contents of the report.

10 \* Sec. 4. AS 09.55.536(f) is amended to read:

11 (f) Discovery [NO DISCOVERY] may be undertaken in a case before  
12 [UNTIL] the report of the expert advisory panel is received. [HOW-  
13 EVER, THE COURT MAY RELAX THIS PROHIBITION UPON A SHOWING OF GOOD  
14 CAUSE BY ANY PARTY.] If the panel has not completed its report within  
15 the 30-day period prescribed in (c) of this section, the court may,  
16 upon application, grant it an additional 30 days.

17 \* Sec. 5. AS 09.55.536(a), as amended in sec. 1 of this Act, has the  
18 effect of amending Alaska Rule of Civil Procedure 72.1 by providing that an  
19 expert advisory panel consists of five persons, three of which are not  
20 health care providers.

21 \* Sec. 6. AS 09.55.536(b), as repealed and reenacted in sec. 2 of this  
22 Act, has the effect of amending Alaska Rule of Civil Procedure 72.1 by  
23 changing the evidence that the expert advisory panel can consider.

24 \* Sec. 7. AS 09.55.536(f), as amended in sec. 4 of this Act, has the  
25 effect of amending Alaska Rule of Civil Procedure 72.1, by allowing discov-  
26 ery before the report of the expert advisory panel is received.

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