

CS FOR HOUSE BILL NO. 292(L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Offered: 2/7/94****Referred: Judiciary, Finance****Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to civil actions; amending Alaska Rules of Civil Procedure 11,
2 49, 68, 82, and 95; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS AND PURPOSE.** (a) The legislature finds that

5 (1) civil justice in this state has generally been developed by the courts on a
6 case-by-case basis; this process has resulted in some significant changes in the law, and the
7 legislature has periodically intervened to bring about needed reforms;

8 (2) the level of malpractice insurance premiums discourage physicians,
9 architects, engineers, attorneys, and other professionals from initiating or continuing their
10 practice or offering needed services to the public;

11 (3) society as a whole cannot afford the price of lawsuits years after
12 construction, manufacture, the delivery of services and other actions; the widespread use of
13 claims made insurance policies makes it impossible to adequately and economically insure
14 against actions for an unlimited period of time; likewise it is extremely difficult to defend

1 against a claim that has become stale after information and witnesses have disappeared;

2 (4) on the whole society is better served with a statute of repose even though
3 in a few limited instances injuries may go without compensation;

4 (5) hospitals that comply with the disclosure requirements set out in this Act
5 should not be liable for the negligence of independent contractors; to this extent this Act is
6 intended to overrule the case of Jackson v. Powers, 743 P.2d 1376 (Alaska 1987);

7 (6) the issues in the Act were intended to be addressed in a comprehensive
8 way in 1986; however, the legislation passed in 1986 fell short of accomplishing the goals of
9 the legislature and the problems that existed in 1986 still exist in 1993.

10 (b) It is the purpose of this Act to

11 (1) enact further reforms that create a more equitable distribution of the cost
12 and risk of injury;

13 (2) reduce costs associated with the civil justice system, while ensuring that
14 adequate and appropriate compensation for persons injured through the fault of others is
15 available;

16 (3) help match losses with compensation by helping to

17 (A) ensure that money paid to an injured person is available when
18 anticipated expenses or losses occur;

19 (B) ensure that a claimant with substantial injury requiring long-term
20 treatment will have money available for future medical care;

21 (C) reduce reparation system costs by eliminating those portions of
22 awards that are not needed to compensate the claimant;

23 (D) eliminate duplicate recoveries; and

24 (E) reduce the costs of litigation;

25 (4) ensure that in actions involving the fault of more than one person, the fault
26 of each claimant, defendant, third-party defendant, person who has been released from
27 liability, or other person responsible for the damages be determined and awards be allocated
28 in accordance with their fault;

29 (5) reduce the amount of litigation proceeding to trial by modifying the
30 allocation of attorney fees and court costs based on the offer of judgment and the final court
31 award thereby providing a financial incentive to both parties to settle the dispute;

1 (6) accumulate additional information concerning the costs to society of the
2 civil justice system as it is presently constituted by having the division of insurance compile
3 useful information and present a report to the legislature; this information is necessary to
4 determine whether the civil justice, health care, and insurance systems as they are presently
5 constituted are fairly serving victims and whether a disproportionate amount of compensation
6 dollars is absorbed by the system;

7 (7) enact a statute of repose that meets the tests set out in Turner Construction
8 Co., Inc. v. Scales, 752 P.2d 467 (Alaska 1988);

9 (8) clarify the circumstances in which hospitals are held directly liable for the
10 actions of health care providers not employed by the hospital.

11 * Sec. 2. AS 08.64 is amended by adding a new section to read:

12 Sec. 08.64.125. MEDICAL PRACTICE PARAMETERS. (a) The board shall
13 appoint a committee representative of medical specialties for the purpose of developing
14 medical practice parameters. The practice parameters shall, consistent with appropriate
15 standards of care, be designed to prevent claims of medical malpractice and to
16 eliminate the practice of defensive medicine undertaken to avoid civil litigation.
17 Medical practice parameters shall be adopted by the board by regulation and shall
18 apply to the practice of medicine in the areas of anesthesiology, obstetrics, gynecology,
19 emergency medicine, radiology, and other medical specialties determined by the
20 committee.

21 (b) Practice parameters developed under (a) of this section

22 (1) must consider the needs of health care consumers and others in the
23 health care system;

24 (2) are admissible as evidence in a civil action alleging professional
25 negligence brought against a person licensed under this chapter; and

26 (3) must be revised at least every two years.

27 * Sec. 3. AS 09.10 is amended by adding a new section to read:

28 Sec. 09.10.052. CERTAIN ACTIONS THAT MUST BE BROUGHT IN SIX
29 YEARS. (a) Notwithstanding the disability of minority described under
30 AS 09.10.140(a), a person may not bring an action for personal injury, death, or
31 property damage unless commenced within six years of the earlier of the date

1 (1) a newly manufactured product was first used for its intended
2 purpose; however, the limitation of this paragraph does not apply to a claim for faulty
3 maintenance of a product;

4 (2) of substantial completion of the construction alleged to have caused
5 the personal injury, death, or property damage; or

6 (3) of the last act alleged to have caused the personal injury, death, or
7 property damage.

8 (b) This section does not apply if

9 (1) the personal injury, death, or property damage was caused
10 intentionally or resulted from gross negligence, fraud, fraudulent misrepresentation, or
11 breach of an express warranty or guarantee;

12 (2) facts that would give notice of a potential cause of action are
13 intentionally concealed; or

14 (3) a shorter period of time for bringing the action is imposed under
15 another provision of law.

16 (c) The limitation imposed under (a) of this section is tolled during any period
17 in which there exists the undiscovered presence of a foreign body, that has no
18 therapeutic or diagnostic purpose or effect, in the body of the injured person and the
19 action is based on the presence of the foreign body.

20 (d) In this section, "substantial completion" means the date when construction
21 is sufficiently completed to allow the owner or a person authorized by the owner to
22 occupy the improvement or to use the improvement in the manner for which it was
23 intended.

24 * Sec. 4. AS 09.10 is amended by adding a new section to read:

25 **Sec. 09.10.065. LIMITATION ON ACTIONS AGAINST HEALTH CARE**
26 **PROVIDERS.** (a) Notwithstanding the disability of minority described under
27 AS 09.10.140(a), an action based on professional negligence may not be brought
28 against a health care provider if the injured person is, on the date of the alleged
29 negligent act or omission, less than six years of age, unless the action is brought before
30 the person's eighth birthday.

31 (b) This section does not apply if a longer period of time is allowed under

1 AS 09.10.075.

2 (c) The limitation imposed under (a) of this section is tolled during any period
3 in which there exists

4 (1) fraud, including fraud or collusion by a parent, guardian, insurer,
5 or health care provider, resulting in the failure to bring an action on behalf of an
6 injured minor; or

7 (2) intentional concealment of facts that would give notice of a
8 potential action.

9 (d) In this section,

10 (1) "health care provider" has the meaning given in AS 09.55.560;

11 (2) "professional negligence" means a negligent act or omission by a
12 health care provider in rendering professional services;

13 (3) "professional services" means services provided by a health care
14 provider that are within the scope of services for which the health care provider is
15 licensed, and that are not prohibited under the health care provider's license or by a
16 hospital in which the health care provider practices.

17 * Sec. 5. AS 09.10.070 is amended to read:

18 Sec. 09.10.070. ACTIONS TO BE BROUGHT IN TWO YEARS. Except as
19 otherwise provided by law, a [NO] person may not bring an action (1) for libel,
20 slander, assault, battery, seduction, or false imprisonment [, OR FOR ANY INJURY
21 TO THE PERSON OR RIGHTS OF ANOTHER NOT ARISING ON CONTRACT
22 AND NOT SPECIFICALLY PROVIDED OTHERWISE]; (2) upon a statute for a
23 forfeiture or penalty to the state; or (3) upon a liability created by statute, other than
24 a penalty or forfeiture; unless commenced within two years.

25 * Sec. 6. AS 09.10 is amended by adding a new section to read:

26 Sec. 09.10.075. LIMITATION ON ACTIONS INVOLVING INJURY TO
27 PERSON OR PROPERTY. (a) Notwithstanding the disability of minority described
28 under AS 09.10.140(a), a person may not bring an action for personal injury, death,
29 or property damage unless the action is brought within two years of the accrual of the
30 action.

31 (b) This section does not apply if a shorter period of time for bringing the

1 action is imposed under another provision of law, other than AS 09.10.065.

2 * Sec. 7. AS 09.17.010 is amended to read:

3 Sec. 09.17.010. NONECONOMIC DAMAGES. (a) In an action to recover
4 damages for personal injury or wrongful death, all damage claims [BASED ON
5 NEGLIGENCE, DAMAGES] for noneconomic losses shall be limited to compensation
6 for pain, suffering, inconvenience, physical impairment, disfigurement, loss of
7 enjoyment of life, loss of consortium, and other nonpecuniary damage.

8 (b) The amount of damages awarded by a court or a jury under (a) of this
9 section may not exceed \$500,000 for all claims, including a loss of consortium
10 claim, arising out of a single injury or death [EACH CLAIM BASED ON A
11 SEPARATE INCIDENT OR INJURY].

12 (c) The limit under (b) of this section does not apply to noneconomic damages
13 awarded by a court or jury against a person who was committing or attempting
14 to commit a class A or unclassified felony, if the person bringing the action was
15 a victim of that offense and the action is based in that offense. In this subsection,
16 "victim" has the meaning given in AS 12.55.185 [FOR DISFIGUREMENT OR
17 SEVERE PHYSICAL IMPAIRMENT].

18 * Sec. 8. AS 09.17.020 is amended to read:

19 Sec. 09.17.020. PUNITIVE DAMAGES. Punitive damages may not be
20 awarded in an action, whether in tort, contract, or otherwise, unless supported by clear
21 and convincing evidence of malice or conscious acts showing deliberate disregard
22 of another person by the person from whom the punitive damages are sought.

23 * Sec. 9. AS 09.17.020 is amended by adding new subsections to read:

24 (b) The amount of punitive damages awarded by a court or jury under (a) of
25 this section may not exceed three times the amount of compensatory damages awarded
26 or \$200,000, whichever amount is greater.

27 (c) The limit under (b) of this section does not apply to punitive damages
28 awarded by a court or jury against a person committing or attempting to commit a
29 class A or unclassified felony if the person bringing the action was a victim of that
30 offense and the action is based on that offense. In this subsection, "victim" has the
31 meaning given in AS 12.55.185.

1 * Sec. 10. AS 09.17.030 is amended to read:

2 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A
3 CRIME. A person who suffers personal injury or death may not recover damages for
4 the personal injury or death if the injuries or death occurred while the person was
5 committing or attempting to commit a felony, or fleeing from [ENGAGED IN] the
6 commission of a felony, [THE PERSON HAS BEEN CONVICTED OF THE
7 FELONY, INCLUDING CONVICTION BASED ON A GUILTY PLEA OR PLEA
8 OF NOLO CONTENDERE,] and the action [FELONY] substantially contributed to
9 the injury or death. [THIS SECTION DOES NOT AFFECT A RIGHT OF ACTION
10 UNDER 42 U.S.C. 1983.]

11 * Sec. 11. AS 09.17.040(a) is amended to read:

12 (a) In every case where damages for personal injury or death are awarded by
13 the court or jury [,]

14 (1) the verdict shall be itemized between economic loss and
15 noneconomic loss, if any, as follows:

16 (A) [(1)] past economic loss;

17 (B) [(2)] past noneconomic loss;

18 (C) [(3)] future economic loss;

19 (D) [(4)] future noneconomic loss; [AND]

20 (E) [(5)] punitive damages; and

21 (2) the amount of economic damages awarded for past or future
22 gross earnings shall be reduced by the amount of federal and state income tax
23 that would be paid on the earnings under tax rates in effect on the date of the
24 injury or death.

25 * Sec. 12. AS 09.17.040(d) is amended to read:

26 (d) In an action to recover damages, the court shall, at the request of a [AN
27 INJURED] party, enter judgment ordering that amounts awarded a judgment creditor
28 for future damages be paid to the maximum extent feasible by periodic payments
29 rather than by a lump-sum payment. If a portion of the judgment awarded is owed
30 to an attorney under a contingent fee agreement, that portion of the judgment
31 shall be reduced to present value and paid in a lump sum.

1 * Sec. 13. AS 09.17.040(e) is amended to read:

2 (e) Except as provided in this subsection, if a judgment is paid by periodic
3 payments, the [THE] court shall [MAY] require security be posted [,] in order to
4 ensure that funds are available as periodic payments become due. The court may not
5 require security to be posted if an authorized insurer, as defined in AS 21.90.900,
6 acknowledges to the court its obligation to discharge the judgment.

7 * Sec. 14. AS 09.17.040(f) is amended to read:

8 (f) A judgment ordering payment of future damages for personal injury or
9 death by periodic payment shall specify the recipient, the dollar amount of the
10 payments, including any increases in future payments for anticipated inflation, the
11 interval between payments, and the number of payments or the period of time over
12 which payments shall be made. Payments may be modified only in the event of the
13 death of the judgment creditor, in which case payments may not be reduced or
14 terminated, but shall be paid to persons to whom the judgment creditor owed a duty
15 of support, as provided by law, immediately before death. In the event the judgment
16 creditor owed no duty of support to dependents at the time of the judgment creditor's
17 death, the money remaining shall be distributed in accordance with a will of the
18 deceased judgment creditor accepted into probate or under the intestate laws of the
19 state if the deceased had no will.

20 * Sec. 15. AS 09.17.070 is repealed and reenacted to read:

21 Sec. 09.17.070. COLLATERAL BENEFITS. (a) Except when the collateral
22 source is a federally funded program that by law must seek subrogation or when the
23 collateral source has a right of subrogation by law or contract, and except for death
24 benefits paid under life insurance, a claimant in an action for personal injury or death
25 may only recover damages that exceed amounts received by the claimant, or that with
26 reasonable probability will be received in the future by the claimant, as compensation
27 for the injuries from collateral sources, whether private, group, or governmental, and
28 whether contributory or noncontributory.

29 (b) A person defending a claim may introduce into evidence an amount paid
30 or payable as a benefit to the claimant as a result of the personal injury or death under
31 42 U.S.C. 301 - 1397 (Social Security Act); a state or federal disability or workers'

1 compensation act; health, sickness, disability, accident, or income-disability insurance;
2 insurance that provides health benefits or income-disability coverage; and a contract
3 or agreement of a group, organization, partnership, or corporation, or other collateral
4 source, to provide, pay for, or reimburse the cost of medical, hospital, dental, or other
5 health care services, disability, or lost wages. However, evidence of a collateral source
6 that has a right of subrogation under law or contract may not be introduced under this
7 subsection. If a person defending a claim elects to introduce evidence described in this
8 subsection, the claimant may introduce evidence of the amount that the claimant has
9 paid or contributed to secure the claimant's right to an insurance or contractual benefit
10 introduced by the person defending the claim as evidence.

11 (c) Unless evidence of a collateral source has already been introduced under
12 (b) of this section, evidence of a collateral source, other than a federal program that
13 by law must seek subrogation or when the collateral source has a right of subrogation
14 by law or contract, and except for a death benefit paid under life insurance, is only
15 admissible after the fact finder has rendered an award. The court may take into
16 account the value of the claimant's rights to coverage exhausted or depleted by
17 payment of the collateral benefit by adding back a reasonable estimate of their
18 probable value, or by designating and holding for possible periodic payment under
19 AS 09.17.040 that amount of the award that would otherwise have been deducted, to
20 determine if the impairment of the claimant's rights actually takes place in the future.

21 (d) A person who provides a collateral benefit admissible under (a) or (b) of
22 this section may not recover any amount against the claimant as reimbursement for
23 those benefits and may not be subrogated to the rights of a claimant against a person
24 defending a claim.

25 * Sec. 16. AS 09.17.080(a) is amended to read:

26 (a) In all actions involving fault of more than one person [PARTY TO THE
27 ACTION], including third-party defendants and persons who have been released under
28 AS 09.17.091 [AS 09.16.040], the court, unless otherwise agreed by all parties, shall
29 instruct the jury to answer special interrogatories or, if there is no jury, shall make
30 findings, indicating

31 (1) the amount of damages each claimant would be entitled to recover

1 if contributory fault is disregarded; and

2 (2) the percentage of the total fault [OF ALL OF THE PARTIES TO
3 EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant,
4 [AND] person who has been released from liability under AS 09.17.091, or other
5 person responsible for the damages to each claimant regardless of whether the
6 other person is or could have been named as a party to the action [AS 09.16.040].

7 * Sec. 17. AS 09.17.080(c) is amended to read:

8 (c) The court shall determine the award of damages to each claimant in
9 accordance with the findings, subject to a reduction under AS 09.17.091
10 [AS 09.16.040], and enter judgment against each party liable. The court also shall
11 determine and state in the judgment each party's equitable share of the obligation to
12 each claimant in accordance with the respective percentages of fault as determined
13 under (a) of this section. An assessment of a percentage of fault against a person
14 who is not a party may only be used as a measure for accurately determining the
15 percentages of fault of a named party. Assessment of a percentage of fault
16 against a person who is not a party does not subject that person to civil liability
17 in this or another action and may not be used as evidence of civil liability in
18 another action.

19 * Sec. 18. AS 09.17 is amended by adding a new section to read:

20 Sec. 09.17.091. EFFECT OF RELEASE. When a release or covenant not to
21 sue or not to enforce judgment is given in good faith to one of two or more persons
22 civilly liable for the same injury or the same wrongful death

23 (1) it does not discharge any of the other persons from liability for the
24 injury or wrongful death unless its terms so provide; but it reduces the claim against
25 the others to the extent of any amount stipulated by the release or the covenant, or in
26 the amount of the consideration paid for it, whichever is the greater; and

27 (2) it discharges the person to whom it is given from all liability for
28 contribution to any other person.

29 * Sec. 19. AS 09.30.065 is amended to read:

30 Sec. 09.30.065. OFFERS OF JUDGMENT. At any time more than 10 days
31 before the trial begins either the party making a claim or the party defending against

1 a claim may serve upon the adverse party an offer to allow judgment to be entered in
2 complete satisfaction of the claim for the money or property or to the effect specified
3 in the offer, with cost then accrued. If within 10 days after the service of the offer the
4 adverse party serves written notice that the offer is accepted, either party may then file
5 the offer and notice of acceptance together with proof of service, and the clerk shall
6 enter judgment. An offer not accepted within 10 days is considered withdrawn and
7 evidence of that offer is not admissible except in a proceeding to determine the form
8 of judgment after verdict. If the judgment finally entered on the claim as to which an
9 offer has been made under this section is not more favorable to the offeree than the
10 offer, the offeree shall pay the actual costs and attorney fees incurred by the
11 offeror from the date the offer was made [THE INTEREST AWARDED UNDER
12 AS 09.30.070 AND ACCRUED UP TO THE DATE JUDGMENT IS ENTERED
13 SHALL BE ADJUSTED AS FOLLOWS:

14 (1) IF THE OFFEREE IS THE PARTY MAKING THE CLAIM, THE
15 INTEREST RATE SHALL BE REDUCED BY FIVE PERCENT A YEAR;

16 (2) IF THE OFFEREE IS THE PARTY DEFENDING AGAINST THE
17 CLAIM, THE INTEREST RATE SHALL BE INCREASED BY FIVE PERCENT A
18 YEAR].

19 * Sec. 20. AS 09.30.070(a) is amended to read:

20 (a) The rate of interest on judgments and decrees for the payment of money
21 is three percent above the 12th Federal Reserve District discount rate in effect on
22 January 2 of the year in which the judgment or decree is entered [10.5 PERCENT
23 A YEAR], except that a judgment or decree founded on a contract in writing,
24 providing for the payment of interest until paid at a specified rate not exceeding the
25 legal rate of interest for that type of contract, bears interest at the rate specified in the
26 contract if the interest rate is set out in the judgment or decree.

27 * Sec. 21. AS 09.30.070 is amended by adding a new subsection to read:

28 (c) Prejudgment interest may not be awarded for future economic damages,
29 future noneconomic damages, or for punitive damages.

30 * Sec. 22. AS 09.55.535(k) is amended to read:

31 (k) The provisions of the Uniform Arbitration Act, AS 09.43.010 - 09.43.180,

1 apply to arbitrations under this section if they do not conflict with the provisions of
2 this section; arbitrations under this section shall be conducted in accordance with
3 procedures established by any rules of court which may be adopted and according to
4 provisions of AS 09.55.540 - 09.55.547 [AS 09.55.540 - 09.55.548] and AS 09.55.554
5 - 09.55.560, and AS 09.65.090.

6 * Sec. 23. AS 09.55.580(a) is amended to read:

7 (a) Except as provided under (f) of this section, when the death of a person
8 is caused by the wrongful act or omission of another, the personal representatives of
9 the former may maintain an action therefor against the latter, if the former might have
10 maintained an action, had the person lived, against the latter for an injury done by the
11 same act or omission. The action shall be commenced within two years after the
12 death, and the damages therein shall be the damages the court or jury may consider
13 fair and just. The amount recovered, if any, shall be exclusively for the benefit of the
14 decedent's spouse and children when the decedent is survived by a spouse or children,
15 or other dependents. When the decedent is survived by no spouse or children or other
16 dependents, the amount recovered shall be administered as other personal property of
17 the decedent but shall be limited to economic [PECUNIARY] loss. When the plaintiff
18 prevails, the trial court shall determine the allowable costs and expenses of the action
19 and may, in its discretion, require notice and hearing thereon. The amount recovered
20 shall be distributed only after payment of all costs and expenses of suit and debts and
21 expenses of administration.

22 * Sec. 24. AS 09.55.580(c) is amended to read:

23 (c) Except as provided in AS 09.17.010 and (g) of this section, in [IN]
24 fixing the amount of damages to be awarded under this section, the court or jury shall
25 consider all the facts and circumstances and from them fix the award at a sum which
26 will fairly compensate for the injury resulting from the death. In determining the
27 amount of the award, the court or jury shall consider but is not limited to the
28 following:

29 (1) deprivation of the expectation of economic [PECUNIARY] benefits
30 to the beneficiary or beneficiaries, without regard to age thereof, that would have
31 resulted from the continued life of the deceased and without regard to probable

1 accumulations or what the deceased may have saved during the lifetime of the
2 deceased;

3 (2) loss of contributions for support;

4 (3) loss of assistance or services irrespective of age or relationship of
5 decedent to the beneficiary or beneficiaries;

6 (4) loss of consortium;

7 (5) loss of prospective training and education;

8 (6) medical and funeral expenses.

9 * Sec. 25. AS 09.55.580 is amended by adding new subsections to read:

10 (g) The amount awarded by the court or jury under this section for economic
11 damages may not exceed \$10,000 if the deceased is not survived by a spouse, minor
12 child, or dependent. In this subsection, "dependent" means a father, mother, child,
13 grandchild, or sibling who was dependent on the deceased at the time of death.

14 (h) The limit under (g) of this section does not apply to damages awarded by
15 a court or jury against a person committing or attempting to commit a class A or
16 unclassified felony if the deceased was a victim of that offense and the action is based
17 on that offense. In this subsection, "victim" has the meaning given in AS 12.55.185.

18 * Sec. 26. AS 09.60.010 is repealed and reenacted to read:

19 Sec. 09.60.010. COSTS AND ATTORNEY FEES ALLOWED PREVAILING
20 PARTY. The supreme court shall determine by rule or order the costs, if any, that
21 may be allowed a prevailing party in a civil action. Unless specifically authorized by
22 statute or by agreement between the parties, attorney fees may not be awarded to a
23 party in a civil action for personal injury, death, or property damage related to or
24 arising out of fault. In this section, "fault" has the meaning given in AS 09.17.900.

25 * Sec. 27. AS 09.65 is amended by adding a new section to read:

26 Sec. 09.65.096. CIVIL LIABILITY OF HOSPITALS FOR NONEMPLOYEES.

27 (a) A hospital is not liable for civil damages as a result of an act or omission by a
28 health care provider who is not an employee or actual agent of the hospital if the
29 hospital provides notice that the health care provider is an independent contractor. The
30 notice required by this subsection must be posted conspicuously in all admitting areas
31 of the hospital, published at least annually in a newspaper of general circulation in the

1 area, and must be in substantially the following form:

2 **Notice of Limited Liability**

3 **The following health care providers are independent contractors**
4 **and are not employees of the hospital:**

5 **(List specific health care providers)**

6 **The hospital is responsible for exercising reasonable care in granting staff privileges**
7 **to practice in the hospital, for reviewing those privileges on a regular basis, and for**
8 **taking appropriate steps to revoke or restrict privileges in appropriate circumstances.**
9 **The hospital is not otherwise liable for the acts or omissions of a health care provider**
10 **who is an independent contractor.**

11 (b) **This section does not preclude liability for civil damages that are the**
12 **proximate result of the hospital's own negligence or intentional misconduct.**

13 (c) **In this section,**

14 (1) **"health care provider" has the meaning given in AS 18.23.070,**
15 **except that it does not include a hospital or an employee of the hospital;**

16 (2) **"hospital" has the meaning given in AS 18.20.130 and includes a**
17 **governmentally owned or operated hospital.**

18 * **Sec. 28. AS 09.65 is amended by adding a new section to read:**

19 **Sec. 09.65.125. SIGNING OF PLEADINGS, MOTIONS, AND OTHER**
20 **PAPERS; SANCTIONS. Every pleading, motion, and other paper of a party**
21 **represented by an attorney shall be signed by at least one attorney of record in the**
22 **attorney's individual name, whose address shall be stated. A party who is not**
23 **represented by an attorney shall sign the party's pleading, motion, or other paper and**
24 **state the party's address. Except when otherwise specifically provided by the Alaska**
25 **Rules of Civil Procedure or statute, pleadings need not be verified or accompanied by**
26 **affidavit. The signature of an attorney or party constitutes a certificate by the signer**
27 **that the signer has read the pleading, motion, or other paper; that to the best of the**
28 **signer's knowledge, information, and belief formed after reasonable inquiry it is well**
29 **grounded in fact and is warranted by existing law or a good faith argument of the**
30 **extension, modification, or reversal of existing law; and that it is not interposed for any**
31 **improper purpose, including to harass or to cause unnecessary delay or needless**

1 increase in the cost of litigation. If a pleading, motion, or other paper is not signed,
2 it shall be stricken unless it is signed promptly after the omission is called to the
3 attention of the pleader or movant. If it is alleged or appears that a pleading, motion,
4 or other paper is signed in violation of this section, the court, upon motion or upon its
5 own initiative, shall immediately set the matter for hearing. If the court determines
6 that a pleading, motion, or other paper is signed in violation of this section, the court
7 shall impose upon the person who signed it, a represented party, or both, an
8 appropriate sanction that shall include an order to pay to the other party the amount
9 of the reasonable expenses incurred because of the filing of the pleading, motion, or
10 other paper, including reasonable attorney fees, and monetary sanctions that are not
11 less than \$500 nor more than \$10,000.

12 * Sec. 29. AS 09.17.040(c) and AS 09.55.548 are repealed.

13 * Sec. 30. AS 09.17.080(a), as amended in sec. 16 of this Act, has the effect of amending
14 Alaska Rule of Civil Procedure 49 by requiring the jury to answer the special interrogatory
15 listed in AS 09.17.080(a)(2), regarding the percentages of fault to be allocated among the
16 parties.

17 * Sec. 31. AS 09.30.065, as amended by sec. 19 of this Act, has the effect of amending
18 Alaska Rule of Civil Procedure 68 by providing that if a judgment is not more favorable to
19 the offeree than the offer, the offeree shall pay actual costs and attorney fees incurred by the
20 offeror.

21 * Sec. 32. AS 09.30.070(c), added by sec. 21 of this Act, has the effect of amending
22 Alaska Rule of Civil Procedure 68 by providing that prejudgment interest may not be awarded
23 for future economic or noneconomic damages.

24 * Sec. 33. AS 09.60.010, as repealed and reenacted by sec. 26 of this Act, has the effect
25 of amending Alaska Rule of Civil Procedure 82 by providing that attorney fees may not be
26 awarded in a civil action for personal injury, death, or property damage, unless authorized by
27 statute or by agreement of the parties.

28 * Sec. 34. AS 09.65.125, added by sec. 28 of this Act, has the effect of amending Alaska
29 Rules of Civil Procedure 11 and 95 by requiring an immediate hearing to consider appropriate
30 sanctions for certain failures relating to the signing of pleadings, motions, or other papers.

31 * Sec. 35. REPORT. (a) The division of insurance shall compile information necessary

1 to determine if the civil justice system is adequately serving claimants and whether a
2 disproportionate amount of compensation dollars are being absorbed by the system. In
3 examining the civil justice system, the division of insurance shall consider the effect of the
4 health care and insurance systems in the state.

5 (b) The information compiled under (a) of this section shall be reported back to the
6 legislature by June 1, 1995.

7 * Sec. 36. TRANSITION. The State Medical Board shall adopt by regulation the initial
8 practice parameters required under AS 08.64.125, enacted by sec. 2 of this Act, by January 1,
9 1997.

10 * Sec. 37. SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
11 application of a provision of this Act to any person or circumstance is held invalid, the
12 remainder of this Act and the application to other persons shall not be affected.

13 * Sec. 38. APPLICABILITY. This Act applies to all causes of action accruing on or after
14 the effective date of this Act.

15 * Sec. 39. This Act takes effect July 1, 1994.