

CS FOR HOUSE BILL NO. 292(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/23/94
Referred: 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 16.1,**
2 **26, 49, 68, and 82; 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) tortfeasors should not be held responsible for the negligence of an
8 employer; to this extent this Act is intended to overrule the case of Lake v. Construction
9 Machinery, Inc., 787 P.2d 1027 (Alaska 1990);

10 (7) the issues in the Act were intended to be addressed in a comprehensive
11 way in 1986; however, the legislation passed in 1986 fell short of accomplishing the goals of
12 the legislature and the problems that existed in 1986 still exist in 1994.

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

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

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

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

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

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

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

26 (D) eliminate duplicate recoveries; and

27 (E) reduce the costs of litigation;

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

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

4 (6) accumulate additional information concerning the costs to society of the
5 civil justice system as it is presently constituted by having the division of insurance compile
6 useful information and present a report to the legislature; this information is necessary to
7 determine whether the civil justice and insurance systems as they are presently constituted are
8 fairly serving residents of the state;

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

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

13 * Sec. 2. AS 09.10 is amended by adding a new section to read:

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

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

21 (2) of substantial completion of the construction alleged to have caused
22 the personal injury, death, or property damage; however, the limitation of this
23 paragraph does not apply to a claim resulting from an intentional or reckless disregard
24 of specific project design plans and specifications or building codes; or

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

27 (b) This section does not apply if

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

31 (2) facts that would give notice of a potential cause of action are

1 intentionally concealed; or

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

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

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

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

13 Sec. 09.10.065. LIMITATION ON ACTIONS AGAINST HEALTH CARE
14 PROVIDERS. (a) Notwithstanding AS 09.10.052 and the disability of minority
15 described under AS 09.10.140(a), an action based on professional negligence may not
16 be brought against a health care provider if the injured person is, on the date of the
17 alleged negligent act or omission, less than six years of age, unless the action is
18 brought before the person's eighth birthday.

19 (b) This section does not apply if a longer period of time is allowed under
20 AS 09.10.075.

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

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

26 (2) intentional concealment of facts that would give notice of a
27 potential action.

28 (d) In this section,

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

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

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

5 * Sec. 4. AS 09.10.070 is amended to read:

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

13 * Sec. 5. AS 09.10 is amended by adding a new section to read:

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

19 (b) This section does not apply if a shorter period of time for bringing the
20 action is imposed under another provision of law, other than AS 09.10.065.

21 * Sec. 6. AS 09.17.010 is repealed and reenacted to read:

22 Sec. 09.17.010. NONECONOMIC DAMAGES. (a) In an action to recover
23 damages for personal injury or wrongful death, all damage claims for noneconomic
24 losses shall be limited to compensation for pain, suffering, inconvenience, physical
25 impairment, disfigurement, loss of enjoyment of life, loss of consortium, and other
26 nonpecuniary damage.

27 (b) Except as provided under (c) of this section, the amount of damages
28 awarded by a court or a jury under (a) of this section for all claims, including a loss
29 of consortium claim, arising out of a single injury or death may not exceed \$500,000.

30 (c) In an action for personal injury, the damages awarded by a court or jury
31 that are described under (b) of this section may not exceed \$750,000 when the

1 claimant, as a result of the injury,

2 (A) is a hemiplegic, paraplegic, or quadriplegic and has
3 permanent functional loss of one or more limbs resulting from injury to the
4 spine or spinal cord; or

5 (B) has permanently impaired cognitive capacity, is incapable
6 of making independent, responsible decisions, and is permanently incapable of
7 independently performing the activities of normal, daily living.

8 (d) The limit under (b) or (c) of this section does not apply to noneconomic
9 damages awarded by a court or jury against a person who, as proven by a
10 preponderance of the evidence, was attempting to commit or committing a felony, if
11 the person bringing the action was a victim of that offense and the offense
12 substantially contributed to the injury or death. In this subsection, "victim" has the
13 meaning given in AS 12.55.185.

14 (e) Multiple injuries sustained as a result of a single incident shall be treated
15 as a single injury for purposes of this section.

16 * Sec. 7. AS 09.17.020 is amended to read:

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

21 * Sec. 8. AS 09.17.020 is amended by adding new subsections to read:

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

25 (c) The limit under (b) of this section does not apply to punitive damages
26 awarded by a court or jury against a person who, as proven by a preponderance of the
27 evidence, was attempting to commit or committing a felony if the person bringing the
28 action was a victim of that offense and the offense substantially contributed to the
29 injury or death. In this subsection, "victim" has the meaning given in AS 12.55.185.

30 * Sec. 9. AS 09.17.030 is amended to read:

31 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A

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

9 * Sec. 10. AS 09.17.040(a) is amended to read:

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

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

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

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

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

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

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

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

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

24 (d) In an action to recover damages, the court shall, at the request of a [AN
25 INJURED] party, enter judgment ordering that amounts awarded a judgment creditor
26 for future damages that exceed \$100,000 be paid to the maximum extent feasible by
27 periodic payments rather than by a lump-sum payment. If a portion of the judgment
28 awarded is owed to an attorney under a contingent fee agreement, that portion
29 of the judgment shall be reduced to present value and paid in a lump sum.

30 * Sec. 12. AS 09.17.040(e) is amended to read:

31 (e) Except as provided in this subsection, if a judgment is paid by periodic

1 payments, the [THE] court shall [MAY] require security be posted [,] in order to
2 ensure that funds are available as periodic payments become due. The court may not
3 require security to be posted if the state or an authorized insurer, as defined in
4 AS 21.90.900, acknowledges to the court its obligation to discharge the judgment.

5 * Sec. 13. AS 09.17.040(f) is amended to read:

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

20 * Sec. 14. AS 09.17.070 is repealed and reenacted to read:

21 Sec. 09.17.070. COLLATERAL BENEFITS. (a) A claimant in an action for
22 personal injury or death may only recover damages that exceed amounts received by
23 the claimant, or that with reasonable probability will be received in the future by the
24 claimant, as compensation for the injuries from collateral sources, whether private,
25 group, or governmental, and whether contributory or noncontributory, except when

26 (1) the collateral source is a federally funded program that by law must
27 seek subrogation;

28 (2) the collateral source has a right of subrogation under federal law;

29 (3) the benefit consists of death benefits paid under life insurance; or

30 (4) the benefit consists of workers' compensation benefits received
31 under AS 23.30.

1 (b) A person defending a claim may introduce into evidence an amount paid
2 or payable as a benefit to the claimant as a result of the personal injury or death under
3 42 U.S.C. 301 - 1397 (Social Security Act); a state or federal disability or workers'
4 compensation act; health, sickness, disability, accident, or income-disability insurance;
5 insurance that provides health benefits or income-disability coverage; and a contract
6 or agreement of a group, organization, partnership, or corporation, or other collateral
7 source, to provide, pay for, or reimburse the cost of medical, hospital, dental, or other
8 health care services, disability, or lost wages. However, evidence of a collateral source
9 that is a federally funded program that by law must seek subrogation or that has a right
10 of subrogation under federal law, or evidence of death benefits paid under life
11 insurance or workers' compensation benefits received under AS 23.30, may not be
12 introduced under this subsection. If a person defending a claim elects to introduce
13 evidence described in this subsection, the claimant may introduce evidence of the
14 amount that the claimant has paid or contributed to secure the claimant's right to an
15 insurance or contractual benefit, including the value of the claimant's rights to depleted
16 or exhausted coverage, introduced by the person defending the claim as evidence. A
17 claimant shall disclose the benefits described in this subsection to a person defending
18 the claim.

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

23 * Sec. 15. AS 09.17.080(a) is amended to read:

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

29 (1) the amount of damages each claimant would be entitled to recover
30 if contributory fault is disregarded; and

31 (2) the percentage of the total fault [OF ALL OF THE PARTIES TO

1 EACH CLAIM] that is allocated to each claimant, defendant, third-party defendant,
2 [AND] person who has been released from liability under AS 09.17.091, or other
3 person responsible for the damages to each claimant regardless of whether the
4 other person, including an employer, is or could have been named as a party to
5 the action [AS 09.16.040].

6 * Sec. 16. AS 09.17.080(c) is amended to read:

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

18 * Sec. 17. AS 09.17 is amended by adding a new section to read:

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

22 (1) it does not discharge any of the other persons from liability for the
23 injury or wrongful death unless its terms so provide; but it reduces the total amount
24 awarded by the jury or court to the extent of any amount stipulated by the release or
25 the covenant, or in the amount of the consideration paid for it, whichever is the
26 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. 18. 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 costs [COST] then accrued. If within 10 days after the service of
4 the offer the adverse party serves written notice that the offer is accepted, either party
5 may then file the offer and notice of acceptance together with proof of service, and the
6 clerk shall enter judgment. An offer not accepted within 10 days is considered
7 withdrawn and evidence of that offer is not admissible except in a proceeding to
8 determine the form of judgment after verdict. If the judgment finally entered on the
9 claim as to which an offer has been made under this section is not more favorable to
10 the offeree than the offer, the offeree shall pay costs as allowed under the Alaska
11 Rules of Civil Procedure and reasonable attorney fees incurred by the offeror
12 from the date the offer was made [THE INTEREST AWARDED UNDER
13 AS 09.30.070 AND ACCRUED UP TO THE DATE JUDGMENT IS ENTERED
14 SHALL BE ADJUSTED AS FOLLOWS:

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

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

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

21 (a) Notwithstanding AS 45.45.010, the [THE] rate of interest on judgments
22 and decrees for the payment of money, including prejudgment interest, is three
23 percent above the 12th Federal Reserve District discount rate in effect on
24 January 2 of the year in which the judgment or decree is entered [10.5 PERCENT
25 A YEAR], except that a judgment or decree founded on a contract in writing,
26 providing for the payment of interest until paid at a specified rate not exceeding the
27 legal rate of interest for that type of contract, bears interest at the rate specified in the
28 contract if the interest rate is set out in the judgment or decree.

29 * Sec. 20. AS 09.30.070 is amended by adding a new subsection to read:

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

1 * **Sec. 21.** AS 09.55.535(k) is amended to read:

2 (k) The provisions of the Uniform Arbitration Act, AS 09.43.010 - 09.43.180,
3 apply to arbitrations under this section if they do not conflict with the provisions of
4 this section; arbitrations under this section shall be conducted in accordance with
5 procedures established by any rules of court which may be adopted and according to
6 provisions of AS 09.55.540 - 09.55.547 [AS 09.55.540 - 09.55.548] and AS 09.55.554
7 - 09.55.560, and AS 09.65.090.

8 * **Sec. 22.** AS 09.55.580(a) is amended to read:

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

24 * **Sec. 23.** AS 09.55.580(c) is amended to read:

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

31 (1) deprivation of the expectation of economic [PECUNIARY] benefits

1 to the beneficiary or beneficiaries, without regard to age thereof, that would have
2 resulted from the continued life of the deceased and without regard to probable
3 accumulations or what the deceased may have saved during the lifetime of the
4 deceased;

5 (2) loss of contributions for support;

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

8 (4) loss of consortium;

9 (5) loss of prospective training and education;

10 (6) medical and funeral expenses.

11 * **Sec. 24.** AS 09.55.580 is amended by adding new subsections to read:

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

16 (h) The limit under (g) of this section does not apply to damages awarded by
17 a court or jury against a person who, as proven by a preponderance of the evidence,
18 was attempting to commit or committing a felony if the deceased was a victim of that
19 offense and the offense substantially contributed to the death. In this subsection,
20 "victim" has the meaning given in AS 12.55.185.

21 * **Sec. 25.** AS 09.60.010 is repealed and reenacted to read:

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

28 * **Sec. 26.** AS 09.65 is amended by adding a new section to read:

29 **Sec. 09.65.096. CIVIL LIABILITY OF HOSPITALS FOR NONEMPLOYEES.**

30 (a) A hospital is not liable for civil damages as a result of an act or omission by a
31 health care provider who is not an employee or actual agent of the hospital if the

1 hospital provides notice that the health care provider is an independent contractor. The
2 notice required by this subsection must be posted conspicuously in all admitting areas
3 of the hospital, published at least annually in a newspaper of general circulation in the
4 area, and must be in substantially the following form:

5 **Notice of Limited Liability**

6 The following health care providers are independent contractors
7 and are not employees of the hospital:

8 (List specific health care providers)

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

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

16 (c) In this section,

17 (1) "health care provider" means a doctor of medicine, a surgeon,
18 psychologist, osteopath, dentist, optometrist, or certified registered nurse anesthetist,
19 who is licensed in this state;

20 (2) "hospital" has the meaning given in AS 18.20.130 and includes a
21 governmentally owned or operated hospital;

22 (3) "independent contractor" means a licensed health care provider who
23 is a member of a hospital's medical staff or who has otherwise been granted specified
24 privileges to render health care services directly or indirectly to patients at the hospital,
25 but who is not an employee or actual agent of the hospital in connection with the
26 rendition of the health care services.

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

28 **Sec. 09.65.125. SIGNING OF PLEADINGS, MOTIONS, AND OTHER**
29 **PAPERS; SANCTIONS.** Every pleading, motion, and other paper of a party
30 represented by an attorney shall be signed by at least one attorney of record in the
31 attorney's individual name, whose address shall be stated. A party who is not

1 represented by an attorney shall sign the party's pleading, motion, or other paper and
2 state the party's address. Except when otherwise specifically provided by the Alaska
3 Rules of Civil Procedure or statute, pleadings need not be verified or accompanied by
4 affidavit. The signature of an attorney or party constitutes a certificate by the signer
5 that the signer has read the pleading, motion, or other paper; that to the best of the
6 signer's knowledge, information, and belief formed after reasonable inquiry it is well
7 grounded in fact and is warranted by existing law or a good faith argument of the
8 extension, modification, or reversal of existing law; and that it is not interposed for any
9 improper purpose, including to harass or to cause unnecessary delay or needless
10 increase in the cost of litigation. If a pleading, motion, or other paper is not signed,
11 it shall be stricken unless it is signed promptly after the omission is called to the
12 attention of the pleader or movant. If it is alleged or appears that a pleading, motion,
13 or other paper is signed in violation of this section, the court, upon motion or upon its
14 own initiative, may set the matter for hearing. If the court determines that a pleading,
15 motion, or other paper is signed in violation of this section, the court may impose upon
16 the person who signed it, a represented party, or both, an appropriate sanction that may
17 include an order to pay to the other party the amount of the reasonable expenses
18 incurred because of the filing of the pleading, motion, or other paper, including
19 reasonable attorney fees, and monetary sanctions that are not less than \$500 nor more
20 than \$10,000.

21 * Sec. 28. AS 09.17.040(c) and AS 09.55.548 are repealed.

22 * Sec. 29. AS 09.17.070(b), as repealed and reenacted by sec. 14 of this Act, has the effect
23 of amending Alaska Rules of Civil Procedure 16.1 and 26 by requiring a claimant in a civil
24 action to disclose benefits described in AS 09.17.070(b).

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

29 * Sec. 31. AS 09.30.065, as amended by sec. 18 of this Act, has the effect of amending
30 Alaska Rule of Civil Procedure 68 by providing that if a judgment is not more favorable to
31 the offeree than the offer, the offeree shall pay costs as allowed under the Alaska Rules of

1 Civil Procedure and reasonable attorney fees incurred by the offeror, and by deleting interest
2 adjustments.

3 * Sec. 32. AS 09.30.070(c), added by sec. 20 of this Act, has the effect of amending
4 Alaska Rule of Civil Procedure 68 by providing that prejudgment interest may not be awarded
5 for future economic or noneconomic damages.

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

10 * Sec. 34. CIVIL JUSTICE REPORT. (a) The division of insurance shall compile
11 information necessary to determine if the civil justice system and the insurance system in the
12 state are fairly serving the residents of the state.

13 (b) The information compiled under (a) of this section shall be reported back to the
14 legislature by June 1, 1998.

15 * Sec. 35. MEDICAL PRACTICE PARAMETER REPORT. (a) The State Medical Board
16 shall request that the Alaska State Medical Association appoint a committee representative of
17 medical specialties for the purpose of determining the efficacy of practice parameters in the
18 state. The committee required under this subsection shall, at a minimum, report to the State
19 Medical Board on the following:

20 (1) the perceived costs and time required to develop practice parameters;
21 (2) an evaluation of the experience with medical practice parameters in other
22 states; and

23 (3) the extent to which medical practice parameters appear to prevent medical
24 malpractice claims and to eliminate or reduce the practice of defensive medicine undertaken
25 to avoid civil litigation.

26 (b) By July 1, 1996, the committee appointed under (a) of this section shall complete
27 its evaluation and submit to the State Medical Board a detailed report concluding with a
28 recommendation for or against the development and adoption of medical practice parameters
29 in the state.

30 (c) Based on the report of the committee appointed under (a) of this section and
31 recommendations submitted under (b) of this subsection, the State Medical Board shall make

1 a formal recommendation to the governor and the legislature regarding the development and
2 adoption of medical practice parameters in the state by January 1, 1997.

3 * Sec. 36. SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
4 application of a provision of this Act to any person or circumstance is held invalid, the
5 remainder of this Act and the application to other persons shall not be affected.

6 * Sec. 37. APPLICABILITY. This Act applies to all causes of action accruing on or after
7 the effective date of this Act.

8 * Sec. 38. This Act takes effect July 1, 1994.