

**CS FOR HOUSE BILL NO. 414(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 3/25/94**

**Referred: Judiciary, Finance**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act creating the Alaska Health Commission; relating to the delivery, quality,  
2 access, and financing of health care; relating to health insurers, health  
3 maintenance organizations, and medical service corporations; relating to certain  
4 civil actions against health care providers and health insurers; amending Alaska  
5 Rules of Civil Procedure 26 and 27 and Alaska Rules of Evidence 802, 803, and  
6 804; repealing Alaska Rule of Civil Procedure 72.1; and providing for an effective  
7 date."

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

9 \* Section 1. FINDINGS AND INTENT. (a) The legislature finds that the access to  
10 quality and affordable health care and maintenance of the public's health are vital to the public  
11 interest. The legislature further finds that health care costs have grown at a rate far in excess  
12 of the overall inflation rate in the economy due to several factors, including variations in  
13 treatment practices of providers, cost shifting by health care providers, administrative costs

1 of insurance claims practices, unavailability of affordable insurance, costs of increasing claims  
2 and liability for medical malpractice, and lack of coordination of population based public  
3 health services. The legislature therefore finds a present need for long-term reform of the  
4 health care system in the state.

5 (b) It is the intent of the legislature to promote access to affordable, quality health  
6 care for Alaskans by the implementation of health care reform measures, the stabilization of  
7 health care service costs, the collection and analysis of information and data concerning health  
8 care services, and the making of recommendations based on that data to the governor and the  
9 legislature.

10 \* Sec. 2. AS 08.64.326 is amended to read:

11 Sec. 08.64.326. **GROUNDS FOR IMPOSITION OF DISCIPLINARY**  
12 **SANCTIONS.** (a) The board may impose a sanction if the board finds after a hearing  
13 that a licensee

14 (1) secured a license through deceit, fraud, or intentional  
15 misrepresentation;

16 (2) engaged in deceit, fraud, or intentional misrepresentation while  
17 providing professional services or engaging in professional activities;

18 (3) advertised professional services in a false or misleading manner;

19 (4) has been convicted, including conviction based on a guilty plea or  
20 plea of nolo contendere, of

21 (A) a felony or other crime if the felony or other crime is  
22 substantially related to the qualifications, functions, or duties of the licensee;  
23 or

24 (B) a crime involving the unlawful procurement, sale,  
25 prescription, or dispensing of drugs;

26 (5) has procured, sold, prescribed, or dispensed drugs in violation of  
27 a law, regardless of whether there has been a criminal action;

28 (6) intentionally or negligently permitted the performance of patient  
29 care by persons under the licensee's supervision that does not conform to minimum  
30 professional standards even if the patient was not injured;

31 (7) failed to comply with this chapter, a regulation adopted under this

1 chapter, or an order of the board;  
2 (8) has demonstrated  
3 (A) professional incompetence, gross negligence, or repeated  
4 negligent conduct; the board may not base a finding of professional  
5 incompetence solely on the basis that a licensee's practice is unconventional or  
6 experimental in the absence of demonstrable physical harm to a patient;  
7 (B) addiction to, severe dependency on, or habitual overuse of  
8 alcohol or other drugs that impairs the licensee's ability to practice safely;  
9 (C) unfitness because of physical or mental disability;  
10 (9) engaged in unprofessional conduct or in lewd or immoral conduct  
11 in connection with the delivery of professional services to patients;  
12 (10) has violated AS 18.16.010;  
13 (11) has violated any code of ethics adopted by regulation by the board;

14 or  
15 (12) [HAS DENIED CARE OR TREATMENT TO A PATIENT OR  
16 PERSON SEEKING ASSISTANCE FROM THE PHYSICIAN IF THE ONLY  
17 REASON FOR THE DENIAL IS THE FAILURE OR REFUSAL OF THE PATIENT  
18 TO AGREE TO ARBITRATE AS PROVIDED IN AS 09.55.535(a); OR

19 (13)] has had a license or certificate to practice medicine in another  
20 state or territory of the United States, or a province or territory of Canada suspended  
21 or revoked unless the suspension or revocation was caused by the failure of the  
22 licensee to pay fees to that state, territory, or province.

23 (b) In a case involving (a)(12) [(a)(13)] of this section, the final findings of  
24 fact, conclusions of law, and order of the authority that suspended or revoked a license  
25 or certificate constitutes a prima facie case that the license or certificate was suspended  
26 or revoked and the grounds under which the suspension or revocation was granted.

27 \* Sec. 3. AS 08.68.270 is amended to read:

28 Sec. 08.68.270. GROUND~~S~~ FOR DENIAL, SUSPENSION, OR  
29 REVOCATION. The board may deny, suspend, or revoke the license of a person who

30 (1) has obtained or attempted to obtain a license to practice nursing by  
31 fraud or deceit;

1 (2) has been convicted of a felony or other crime if the felony or other  
2 crime is substantially related to the qualifications, functions or duties of the licensee;

3 (3) habitually abuses alcoholic beverages, or illegally uses controlled  
4 substances;

5 (4) has impersonated a registered or practical nurse;

6 (5) has intentionally or negligently engaged in conduct that has resulted'  
7 in a significant risk to the health or safety of a client or in injury to a client;

8 (6) practices or attempts to practice nursing while afflicted with  
9 physical or mental illness, deterioration, or disability that interferes with the  
10 individual's performance of nursing functions;

11 (7) is guilty of unprofessional conduct as defined by regulations  
12 adopted by the board;

13 (8) has wilfully or repeatedly violated a provision of this chapter or  
14 regulations adopted under it;

15 (9) is professionally incompetent [;

16 (10) DENIES CARE OR TREATMENT TO A PATIENT OR PERSON  
17 SEEKING ASSISTANCE IF THE SOLE REASON FOR THE DENIAL IS THE  
18 FAILURE OR REFUSAL OF THE PATIENT OR PERSON SEEKING ASSISTANCE  
19 TO AGREE TO ARBITRATE AS PROVIDED IN AS 09.55.535(a)].

20 \* Sec. 4. AS 09.55.535 is repealed and reenacted to read:

21 Sec. 09.55.535. MANDATORY ARBITRATION. (a) A person who files an  
22 action for damages against a health care provider resulting from medical malpractice  
23 shall also submit the claim to the court for arbitration.

24 (b) When a claim is submitted as required by (a) of this section, the court shall  
25 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim  
26 shall interview the parties and examine all records or materials relating to the claim  
27 and may compel the attendance of witnesses, interview the parties, or consult with  
28 medical specialists.

29 (c) An arbitrator appointed under this section shall conduct a prehearing  
30 settlement conference within 30 days after the appointment. The arbitrator shall  
31 establish a period for discovery and a date for a hearing. The hearing date may not

1 be more than 120 days after the settlement conference.

2 (d) An arbitrator shall render a decision within 30 days after hearing a claim  
3 under (c) of this section. The decision must contain findings of fact and conclusions  
4 of law. The decision of the arbitrator may be rejected by a party.

5 (e) If the decision of the arbitrator is rejected by a party, the action may  
6 proceed in the appropriate court. The arbitrator's decision is admissible evidence in  
7 that action and may be used by a party to support or oppose a claim of damages.

8 (f) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)  
9 apply to an arbitration under this section to the extent the provisions do not conflict  
10 with the provisions of this section.

11 \* Sec. 5. AS 09.55.536 is amended to read:

12 Sec. 09.55.536. EXPERT ADVISOR [ADVISORY PANEL]. (a) In an action  
13 for damages due to personal injury or death based upon the provision of professional  
14 services by a health care provider [WHEN THE PARTIES HAVE NOT AGREED TO  
15 ARBITRATION OF THE CLAIM UNDER AS 09.55.535,] the court shall appoint  
16 within 20 days after filing of answer to a summons and complaint an [A THREE-  
17 PERSON] expert medical advisor [EXPERT ADVISORY PANEL] unless the court  
18 decides that an expert advisory opinion is not necessary for a decision in the case.  
19 When the action is filed the court shall, by order, determine the professions or  
20 specialties to be represented by [ON] the medical expert [ADVISORY PANEL],  
21 giving the parties the opportunity to object or make suggestions.

22 (b) The expert advisor [ADVISORY PANEL] may compel the attendance of  
23 witnesses, interview the parties, physically examine the injured person if alive, consult  
24 with the specialists or learned works the advisor considers [THEY CONSIDER]  
25 appropriate, and compel the production of and examine all relevant hospital, medical,  
26 or other records or materials relating to the health care in issue. The advisor  
27 [PANEL] may meet in camera, but shall maintain a record of any testimony or oral  
28 statements of witnesses, and shall keep copies of all written statements received [IT  
29 RECEIVES].

30 (c) Not more than 30 days after selection of the advisor, the advisor [PANEL,  
31 IT] shall make a written report to the parties and to the court, answering the following

1 questions and other questions submitted to the advisor [PANEL] by the court:

2 (1) What was the disorder for which the plaintiff came to medical care?

3 (2) What would have been the probable outcome without medical care?

4 (3) Was the treatment selected appropriate for the case?

5 (4) Did an injury arise from the medical care?

6 (5) What is the nature and extent of the medical injury?

7 (6) What specifically caused the medical injury?

8 (7) Was the medical injury caused by unskillful care?

9 (8) If a medical injury had not occurred, how would the plaintiff's  
10 condition differ from the plaintiff's present condition?

11 (d) In any case in which the answer to one or more of the questions submitted  
12 to the advisor [PANEL] depends upon the resolution of factual questions that  
13 [WHICH] are not the proper subject of expert opinion, the report shall so state and  
14 may answer questions based upon hypothetical facts that are fully set out in the  
15 opinion. The report must [SHALL] include copies of all written statements, opinions,  
16 or records relied upon by the advisor [PANEL] and either a transcription or other  
17 record of any oral statements or opinions; must [SHALL] specify any medical or  
18 scientific authority relied upon by the advisor [PANEL]; and must [SHALL] include  
19 the results of any physical or mental examination performed on the plaintiff. The  
20 advisor [EACH MEMBER] shall sign the report and the signature constitutes the  
21 advisor's [MEMBER'S] adoption of all statements and opinions contained in it. An  
22 advisor [; HOWEVER, A MEMBER MAY, INSTEAD OF SIGNING THE REPORT,  
23 SUBMIT A CONCURRING OR DISSENTING REPORT WHICH COMPLIES WITH  
24 THE REQUIREMENTS OF THIS SUBSECTION. A MEMBER] may not attest to  
25 any portion of the report as to which the advisor [MEMBER] is not qualified to give  
26 expert testimony.

27 (e) The report of the advisor [PANEL WITH ANY DISSENTING OR  
28 CONCURRING OPINION] is admissible in evidence to the same extent as though its  
29 contents were orally testified to by the person [OR PERSONS] preparing it. The court  
30 shall delete any portion that would not be admissible because of lack of foundation for  
31 opinion testimony, or otherwise. Either party may submit testimony to support or

1 refute the report. The jury shall be instructed in general terms that the report shall be  
2 considered and evaluated in the same manner as any other expert testimony. The  
3 expert advisor [ANY MEMBER OF THE PANEL] may be called by any party and  
4 may be cross-examined as to the contents of the report [OR OF THAT MEMBER'S  
5 DISSENTING OR CONCURRING OPINION].

6 (f) Discovery [NO DISCOVERY] may not be undertaken in a case until the  
7 report of the expert advisor [ADVISORY PANEL] is received. However, the court  
8 may relax this prohibition upon a showing of good cause by a [ANY] party. If the  
9 advisor [PANEL] has not completed the [ITS] report within the 30-day period  
10 prescribed in (c) of this section, the court may, upon application, grant [IT] an  
11 additional 30 days.

12 (g) The expert advisor is [MEMBERS OF A PANEL ARE] entitled to travel  
13 expenses and per diem in accordance with state law pertaining to members of boards  
14 and commissions for all time spent in preparing the [ITS] report. If an advisor [A  
15 PANEL MEMBER] is called upon as a witness at trial or upon deposition, the advisor  
16 [MEMBER] is entitled to payment of an expert witness fee, which may not exceed  
17 \$150 per day. All expenses incurred by the advisor [PANEL] shall be paid by the  
18 court. However, in any case in which the court determines that a party has made a  
19 patently frivolous claim or a patently frivolous denial of liability, it shall order that all  
20 costs of the expert advisor [ADVISORY PANEL] be borne by the party making that  
21 claim or denial.

22 (h) Parties to the case and their counsel may not initiate communication out  
23 of court with an expert advisor [MEMBERS OF THE PANEL] on the subject matter  
24 of the advisor's [ITS] inquiry and report or cause or solicit others to do so, except  
25 through ordinary discovery proceedings.

26 \* Sec. 6. AS 09.55 is amended by adding a new section to read:

27 ARTICLE 5A. CERTAIN CLAIMS AGAINST HEALTH INSURERS.

28 Sec. 09.55.565. PROCEDURE FOR CERTAIN CLAIMS AGAINST A  
29 HEALTH INSURER. (a) Unless preempted by federal law that provides otherwise,  
30 a person who files an action against a health insurer resulting from a failure to timely  
31 pay a claim or to authorize a health care service under a plan or policy shall also

1 submit the claim to the court for arbitration.

2 (b) When a claim is submitted as required by (a) of this section, the court shall  
3 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim  
4 shall interview the parties and examine all records or materials relating to the claim  
5 and may compel the attendance of witnesses, interview the parties, or consult with  
6 medical specialists.

7 (c) An arbitrator appointed under this section shall conduct a prehearing  
8 settlement conference within 30 days after the appointment. The arbitrator shall  
9 establish a period for discovery and a date for a hearing. The hearing date may not  
10 be more than 120 days after the settlement conference.

11 (d) An arbitrator shall render a decision within 30 days after hearing a claim  
12 under (c) of this section. The decision must contain findings of fact and conclusions  
13 of law. The decision of the arbitrator may be rejected by a party.

14 (e) If the decision of the arbitrator is rejected by a party, the action may  
15 proceed in the appropriate court. The arbitrator's decision is admissible evidence in  
16 that action and may be used by a party to support or oppose a claim of damages.

17 (f) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)  
18 apply to an arbitration under this section to the extent the provisions do not conflict  
19 with the provisions of this section.

20 (g) In this section,

21 (1) "health care service" has the meaning given in AS 21.86.900;

22 (2) "health insurer" has the meaning given in AS 44.19.639.

23 \* Sec. 7. AS 21.51 is amended by adding new sections to read:

24 Sec. 21.51.350. PREMIUM RATES AND RATING FACTORS. A disability  
25 insurer

26 (1) shall file with the director rates or rating factors for disability  
27 insurance before the intended effective date of the rate or rating factor;

28 (2) may not use a rate or rating factor that has not been filed with the  
29 director; and

30 (3) may file a new rate or rating factor at any time.

31 Sec. 21.51.360. RISK SHARING AND PURCHASING POOLS. After

1 consulting with and considering any reports or recommendations of the Alaska Health  
2 Commission, the director shall adopt regulations to allow for the creation of pools,  
3 including pools for the primary benefit of children, for the purpose of sharing risks or  
4 purchasing insurance under this chapter.

5 \* Sec. 8. AS 21.86.070(g) is amended to read:

6 (g) The director may require that additional relevant material considered  
7 necessary by the director be submitted in order to determine the acceptability of a  
8 filing made under [EITHER] (b) [OR (e)] of this section.

9 \* Sec. 9. AS 21.86 is amended by adding a new section to read:

10 Sec. 21.86.075. PREMIUM RATES AND CHARGES. A health maintenance  
11 organization

12 (1) shall file with the director rates, rating factors, premiums, fees for  
13 services, and enrollee fees, including a change to a rate, rating factor, premium, or fee,  
14 used in providing health care services to enrollees of the health maintenance  
15 organization;

16 (2) may not use a rate, rating factor, premium, or fee that has not been  
17 filed with the director; and

18 (3) may file a new rate, rating factor, premium, or fee at any time.

19 \* Sec. 10. AS 21.86 is amended by adding a new section to read:

20 Sec. 21.86.320. RISK SHARING AND PURCHASING POOLS. After  
21 consulting with and considering any reports or recommendations of the Alaska Health  
22 Commission, the director shall adopt regulations to allow for the creation of pools,  
23 including pools for the primary benefit of children, for the purpose of sharing risks or  
24 purchasing insurance under this chapter.

25 \* Sec. 11. AS 21.87.190 is repealed and reenacted to read:

26 Sec. 21.87.190. RATES AND CHARGES. A service corporation

27 (1) shall file with the director subscription rates, rating factors, fees,  
28 and payment charges, including a change to a rate, rating factor, fee, or payment  
29 charge, to be charged to or on account of the service corporation's subscribers;

30 (2) may not use a rate, rating factor, fee, or payment charge that has  
31 not been filed with the director; and

1                   **(3)** may file a new rate, rating factor, fee, or payment charge at any  
2                   time.

3   \* **Sec. 12.** AS 21.87 is amended by adding a new section to read:

4                   **Sec. 21.87.285. RISK SHARING AND PURCHASING POOLS.** After  
5                   consulting with and considering any reports or recommendations of the Alaska Health  
6                   Commission, the director shall adopt regulations to allow for the creation of pools,  
7                   including pools for the primary benefit of children, for the purpose of sharing risks or  
8                   purchasing insurance under this chapter.

9   \* **Sec. 13.** AS 36.30.015 is amended by adding a new subsection to read:

10                  **(h)** The Alaska Health Commission shall adopt regulations to manage the  
11                  procurement of supplies, services, and professional services necessary for its operations  
12                  under AS 44.19.619 - 44.19.639. The regulations must be based on principles of  
13                  competitive procurement, consistent with this chapter, to satisfy the requirements of  
14                  the Alaska Health Commission as determined by that commission.

15   \* **Sec. 14.** AS 36.30.990(1) is amended to read:

16                  **(1)** "agency"

17                                 **(A)** means a department, institution, board, commission,  
18                                 division, authority, public corporation, the Alaska Pioneers' Home, or other  
19                                 administrative unit of the executive branch of state government;

20                                 **(B)** does not include

21                                         **(i)** the University of Alaska;

22                                         **(ii)** the Alaska Railroad Corporation;

23                                         **(iii)** the Alaska Housing Finance Corporation;

24                                         **(iv)** a regional Native housing authority created under  
25                                 AS 18.55.996 or a regional electrical authority created under  
26                                 AS 18.57.020;

27                                         **(v)** the Department of Transportation and Public  
28                                 Facilities, in regard to the repair, maintenance, and reconstruction of  
29                                 vessels, docking facilities, and passenger and vehicle transfer facilities  
30                                 of the Alaska marine highway system;

31                                         **(vi)** the Alaska Aerospace Development Corporation;

1 (vii) the Alaska State Pension Investment Board;

2 (viii) the Alaska Health Commission;

3 \* Sec. 15. AS 39.25.110(11) is amended to read:

4 (11) the officers and employees of the following boards, commissions,  
5 and authorities:

6 (A) Alaska Gas Pipeline Financing Authority;

7 (B) Alaska Permanent Fund Corporation;

8 (C) Alaska Industrial Development and Export Authority;

9 (D) Alaska Commercial Fisheries Entry Commission;

10 (E) Alaska Commission on Postsecondary Education;

11 (F) Alaska Aerospace Development Corporation;

12 (G) Alaska Health Commission;

13 \* Sec. 16. AS 44.19 is amended by adding new sections to read:

14 ARTICLE 12. ALASKA HEALTH COMMISSION.

15 Sec. 44.19.619. CREATION OF COMMISSION. The Alaska Health  
16 Commission is created in the Office of the Governor.

17 Sec. 44.19.621. PURPOSE OF COMMISSION. The purpose of the  
18 commission is to improve health care in this state by

19 (1) establishing and implementing a system for collecting and analyzing  
20 information and data relating to the individual and public health care needs of and  
21 services provided to residents of the state;

22 (2) promoting the use of electronic data transfer and the implementation  
23 of uniform procedures for billing, payment, and claim systems;

24 (3) promoting consumer confidence in the health care system through  
25 rate filings by health insurers and disclosure of charges by health care providers;

26 (4) promoting consumer confidence in the health care system by  
27 requiring insurers and managed care plans to fully disclose the health care benefits  
28 provided under the policy or plan and explain any exclusions or restrictions on  
29 benefits; disclosure should include an explanation of limitations on

30 (A) referral to a specialty physician or other provider;

31 (B) the insured's choice of provider;

1 (C) diagnostic tests, including mammography;

2 (D) prescription drugs;

3 (E) dental services;

4 (F) laboratory tests;

5 (G) mental health services; and

6 (H) reproductive tests;

7 (5) promoting the creation of pools, including pools for the primary  
8 benefit of children, for the purpose of sharing risks or purchasing insurance for health  
9 care services; and

10 (6) analyzing health care reform proposals, including a proposal that  
11 is based on a market based single payer system; recommending health care reform  
12 proposals to the governor and the legislature; and reporting to and making  
13 recommendations to the governor and legislature on the following:

14 (A) defining a range of potential benefit packages for universal  
15 health care coverage for residents of the state; a benefit package must include  
16 coverage for health care services without containing an exclusion based on a  
17 preexisting condition;

18 (B) determining the needs and requirements imposed on the  
19 state by federal enactments that affect health care reform; the commission shall  
20 make the determination required under this subparagraph within 60 days after  
21 each measure is enacted into law;

22 (C) determining the prospective costs for recommended  
23 comprehensive health care reform proposals, as requested by the governor or  
24 as determined by a majority vote of the commission;

25 (D) determining financing plans for recommended proposals;

26 (E) describing administrative structures necessary to implement  
27 recommended proposals;

28 (F) identifying a process to implement statewide expenditure  
29 measures for health care goods and services;

30 (G) investigating health care standards of practice and  
31 determining their effect on medical tort liability and other aspects of health care

1 delivery; and

2 (H) investigating alternatives to existing hospital licensing  
3 requirements to allow for less use of acute care facilities.

4 **Sec. 44.19.622. COMPOSITION; QUALIFICATIONS; TERMS; REMOVAL;**  
5 **DESIGNATION OF CHAIR.** (a) The commission consists of three members  
6 appointed by the governor and confirmed by the legislature for six-year terms. Not  
7 more than one member of the commission may be

8 (1) a health care provider; or

9 (2) employed by a health insurance company.

10 (b) A commission member may serve only one six-year term plus the  
11 remainder of any unexpired term to which the member was appointed.

12 (c) The governor may remove a member of the commission only for cause.

13 (d) The governor shall designate a member of the commission to serve, at the  
14 pleasure of the governor, as chair of the commission for a term of two years. The  
15 governor may reappoint the same member for additional terms as chair.

16 (e) A commission member shall comply with the applicable requirements of  
17 AS 39.50, and must be a state resident throughout the person's term as a member of  
18 the commission.

19 **Sec. 44.19.623. STAFF.** The commission may employ staff as necessary to  
20 carry out the purposes of this chapter. The staff of the commission is in the exempt  
21 service.

22 **Sec. 44.19.624. COMPENSATION.** Members of the commission are in the  
23 exempt service and are entitled to a monthly salary equal to Step C, Range 26, of the  
24 salary schedule set out in AS 39.27.011(a) for Anchorage, Alaska. Subject to the  
25 availability of appropriations, the chair may be paid at a higher step in the same range,  
26 if approved by the governor.

27 **Sec. 44.19.625. MEETINGS.** (a) The commission shall meet publicly not less  
28 than quarterly to accomplish its duties under AS 44.19.619 - 44.19.639. The  
29 commission shall comply with AS 44.62.310 - 44.62.312.

30 (b) Two members of the commission constitute a quorum for the transaction  
31 of business and the exercise of the powers and duties of the commission.

1                   **Sec. 44.19.626. POWERS AND DUTIES. (a) The commission may**

2                   **(1) enter into contracts and execute instruments necessary for carrying**  
3 **out its business;**

4                   **(2) establish advisory committees to the commission to conduct**  
5 **research or investigation and report back to the commission on findings; an advisory**  
6 **committee must consist of at least one member of the commission and may include**  
7 **other individuals with appropriate expertise appointed by the commission;**

8                   **(3) adopt regulations necessary to interpret or implement**  
9 **AS 44.19.619 - 44.19.639, including regulations establishing reasonable, necessary fees**  
10 **for services provided by the commission.**

11                   **(b) The commission shall**

12                   **(1) conduct public meetings in accordance with AS 44.19.625,**  
13 **including holding public hearings as necessary;**

14                   **(2) collect and analyze data and information from public, private, or**  
15 **other sources relating to the cost, delivery, or financing of health care services**  
16 **provided to state residents;**

17                   **(3) monitor the costs of and the access to health care services to state**  
18 **residents;**

19                   **(4) make reports and recommendations to the governor and legislature**  
20 **in accordance with AS 44.19.619 - 44.19.639;**

21                   **(5) establish a public health advisory committee that**

22                               **(A) consists of at least one member of the commission and**  
23 **other individuals with significant public health expertise appointed by the**  
24 **commission; the commission shall consider public and private health care**  
25 **professionals, labor organizations, businesses, the education system, the Alaska**  
26 **Public Health Association, the Alaska Mental Health Board, and the Alaska**  
27 **Native Health Board for service on the public health advisory committee, as**  
28 **well as recognizing the need for geographic, ethnic, and cultural diversity;**

29                               **(B) advises the commission on public health matters and the**  
30 **integration of public health services under AS 44.19.621;**

31                               **(C) develops a public health improvement plan as described**

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under (c) of this section;

(6) obtain waivers from federal agencies or under applicable federal law to the extent necessary to maximize the collection and analysis of health care data.

(c) The plan developed by the committee under (b)(5) of this section may

(1) recognize the need for

(A) community involvement in health care planning and delivery;

(B) attention to local needs that may vary from place to place;

(C) accountability for the use of public funds;

(D) equity and stability in the distribution of public funds;

(E) shared responsibility of all levels of government for administering and financing public health care delivery; and

(F) coordination of basic public health services; and

(2) include

(A) an analysis of the health status of the residents of the state;

(B) an assessment of the most appropriate role for various levels of government to play in addressing the health care needs of the residents of the state;

(C) a delineation of the standards that should be used in performing assessment, policy development, and quality assurance in the delivery of public health services;

(D) documentation of the extent to which the current public health system implements or achieves the standards identified under (C) of this paragraph;

(E) identification of interjurisdictional issues involved in health care access and delivery;

(F) recommendations, including recommendations for specific legislative action when necessary, pertaining to the following:

(i) strategies, time lines, financial needs, and specific sources of stable revenue for bringing the state public health care system up to standards identified by the committee;

1 (ii) appropriate sharing of the responsibility of local,  
2 regional, state, and federal government entities to deliver public health  
3 care services efficiently and effectively, including recommendations for  
4 organization within state government;

5 (iii) integration of the public health care system with  
6 state and national health care reform efforts;

7 (iv) the committee's estimate of the optimal share that  
8 public health should represent in the total health care delivery system  
9 of the state, expressed in terms of a percentage of health care dollars  
10 spent or in terms of public dollars per state resident;

11 (v) a program designed to give incentives to primary  
12 care providers to practice in the state, especially in rural and under  
13 served areas of the state.

14 Sec. 44.19.627. DUTY TO REPORT. At the request of the governor, the  
15 commission shall compile and issue to the governor, the legislature, and the public a  
16 report concerning its activities.

17 Sec. 44.19.628. UNIFORM DATA AND PROCEDURES FOR HEALTH  
18 CLAIMS. (a) The director of the division of insurance, after considering the advice  
19 of the commission, shall adopt by regulation uniform claims forms, uniform standards,  
20 and uniform procedures for the processing of data relating to billing for and payment  
21 of health care services provided to state residents. All health insurers shall comply  
22 with the uniform claims forms, standards, and procedures established under this  
23 section.

24 (b) To the extent that there is a conflict or inconsistency between a provision  
25 of AS 21 that applies to a health insurer and a provision of a regulation adopted under  
26 (a) of this section, the regulation governs. The director of the division of insurance  
27 shall ensure that regulations adopted by the director under AS 21 that apply to a health  
28 insurer are not in conflict or inconsistent with regulations adopted under (a) of this  
29 section.

30 Sec. 44.19.631. DISCLOSURE OF INFORMATION; PENALTY. (a) A  
31 person providing or insuring health care services in the state shall provide, upon

1 request or order of the commission, reports, data, health information, insurance  
2 schedules, statistics, and other information, as determined necessary by the  
3 commission, by regulation, to carry out the purposes of AS 44.19.619 - 44.19.639.  
4 This subsection applies to the state and to a municipality; as well as to public and  
5 private health care facilities and providers, and health care insurers and self-insurers.

6 (b) Information and data obtained or produced by the commission is subject  
7 to AS 09.25.110 and 09.25.120 and regulations adopted under AS 09.25.110 and  
8 09.25.120. Information or data that identifies a recipient of health care services is  
9 considered to be a medical and related public health record that is subject to the  
10 exception to public inspection under AS 09.25.120 and shall be kept confidential.

11 (c) A member, an employee, or an agent of the commission, or a member of  
12 an advisory committee to the commission, who wrongfully discloses or who uses or  
13 permits the use of confidential information or data in violation of (b) of this section  
14 is guilty of a class B misdemeanor.

15 Sec. 44.19.632. IMMUNITY FROM LIABILITY. Members of the  
16 commission, its employees, its agents, its advisory committee members, and persons  
17 providing information and data to the commission as required under AS 44.19.619 -  
18 44.19.639 are not liable for civil damages for an act or omission in the execution of  
19 their authorized activities or duties under AS 44.19.619 - 44.19.639. This section does  
20 not preclude liability for civil damages as a result of reckless or intentional  
21 misconduct.

22 Sec. 44.19.633. OATHS; SUBPOENAS. (a) The commission may administer  
23 oaths and may issue subpoenas to persons to require testimony or to require the  
24 production of records, information, or data under AS 44.19.631.

25 (b) If a person disobeys or resists a lawful subpoena issued by the commission,  
26 the commission may certify the facts to the superior court, and upon certification the  
27 court shall issue an order directing the person to appear before the court and show  
28 cause why the person should not be punished for contempt.

29 Sec. 44.19.634. APPROPRIATIONS. The legislature may appropriate a  
30 portion of the proceeds of the tax on insurance premiums collected under  
31 AS 21.09.210 to the Alaska Health Commission for the commission's operating costs.

1           **Sec. 44.19.635. DISCLOSURE OF PROVIDER CHARGES; FINE FOR**  
2 **NONDISCLOSURE. (a) At least annually, a provider shall compile a list of charges**  
3 **for the 20 health care services most commonly provided by that provider. Charges for**  
4 **hospital services may be prepared on the basis of diagnosis-related groups. Upon**  
5 **request of a person who is considering obtaining services from a provider, the provider**  
6 **shall provide the list of charges to the person for use in comparing charges among**  
7 **providers.**

8           (b) Upon the request of a patient and before the commencement of a medical  
9 procedure, the provider shall disclose to that patient the estimated charge for the  
10 procedure. The estimated charge shall be made in good faith and must be based on  
11 the provider's history of charges for that procedure. Nothing in this subsection  
12 requires a provider to make a charge estimate if the provider does not agree to perform  
13 the procedure.

14           (c) A provider shall place the following statement either on a form to be  
15 signed by the patient or in a conspicuous location on an easily readable sign: "You  
16 are entitled to a charge estimate for a medical procedure before the procedure is  
17 performed by your health provider."

18           (d) If the commission, after investigation of a complaint by a patient,  
19 determines that a provider has not complied with this section, the commission may  
20 impose a fine of up to \$1,000 against the provider. The commission may impose only  
21 one fine under this section against a provider in a calendar year. A provider's  
22 violation of this section does not preclude the provider from collecting payment for  
23 services provided.

24           (e) A provider aggrieved by a decision of the commission under this section  
25 may appeal the decision to the superior court.

26           **Sec. 44.19.639. DEFINITIONS. In AS 44.19.619 - 44.19.639, unless the**  
27 **context requires otherwise,**

28           (1) "commission" means the Alaska Health Commission;

29           (2) "division of insurance" means the division of insurance in the  
30 Department of Commerce and Economic Development;

31           (3) "health care services" has the meaning given in AS 21.86.900;

1 (4) "health information" means all information and data relating to  
2 access to or delivery or financing of health care services;

3 (5) "health insurance" has the meaning given "disability insurance" in  
4 AS 21.12.050;

5 (6) "health insurer" means an entity transacting the business of health  
6 insurance, a health maintenance organization under AS 21.86, a hospital service  
7-- corporation under AS 21.87, a medical service corporation under AS 21.87, or a  
8 combined medical service and hospital service corporation under AS 21.87;

9 (7) "market based single payer system" means a system in which a  
10 single entity provides health insurance to all residents of the state and the insurance  
11 is based on market forces, and may include provider defined fees, defined patient  
12 copayments, sliding scale copayments for the indigent, provider fees that are posted  
13 or made otherwise available at the point of services, published or disseminated fees in  
14 comparative lists that allow fee comparison by consumers, voluntary expenditure  
15 targets, provider peer review and control of volume, utilization, and quality of health  
16 services, and a regularly published description of the various types of providers  
17 licensed to provide services in the benefit package;

18 (8) "pool" means a mechanism to facilitate or provide for sharing risks  
19 or the purchase of health insurance in the event coverage is unavailable or  
20 unobtainable;

21 (9) "provider" has the meaning given in AS 21.86.900.

22 \* Sec. 17. AS 44.62.310(d) is amended to read:

23 (d) This section does not apply to

24 (1) judicial or quasi-judicial bodies when holding a meeting solely to  
25 make a decision in an adjudicatory proceeding;

26 (2) juries;

27 (3) parole or pardon boards;

28 (4) meetings of a hospital medical staff; or

29 (5) meetings of the governing body or any committee of a hospital  
30 when holding a meeting solely to act upon matters of professional qualifications,  
31 privileges or discipline; or

1                                    (6) meetings of the Alaska Health Commission, except for meetings  
2                                    concerning the adoption of regulations.

3       \* Sec. 18. AS 44.66.010(a) is amended by adding a new paragraph to read:  
4                                    (20) Alaska Health Commission (AS 44.19.619) -- June 30, 1999.

5       \* Sec. 19. AS 09.55.560(2), 09.55.560(3); AS 21.86.070(e), and 21.86.070(f) are repealed.

6       \* Sec. 20. Alaska Rule of Civil Procedure 72.1 is repealed.

7       \* Sec. 21. APPLICABILITY. Sections 4, 5, and 6 of this Act apply to a cause of action  
8 accruing on or after the effective date of this Act.

9       \* Sec. 22. INITIAL APPOINTMENT OF COMMISSION MEMBERS. Notwithstanding  
10 AS 44.19.622(a), enacted by sec. 16 of this Act, the terms of persons initially appointed to the  
11 Alaska Health Commission under AS 44.19.622 shall be staggered as provided in  
12 AS 39.05.055.

13       \* Sec. 23. REAPPOINTMENT OF INITIAL APPOINTEES. Notwithstanding  
14 AS 44.19.622(b), enacted by sec. 16 of this Act, a person initially appointed to the Alaska  
15 Health Commission under (a) of this section may be reappointed to serve no more than one  
16 six-year term as a member of the Alaska Health Commission.

17       \* Sec. 24. PHASED TRANSITION PERIOD. (a) Notwithstanding the provisions of  
18 AS 44.19.621 - 44.19.639, the Alaska Health Commission shall implement the provisions of  
19 AS 44.19.621 - 44.19.639 on a orderly and gradual basis as follows:

20                                    (1) by July 1, 1995, the director of the division of insurance shall adopt  
21 regulations necessary to implement the uniform claim form described by AS 44.19.628(a);

22                                    (2) by January 1, 1996, the commission shall complete the research necessary  
23 to report recommendations to the governor and the legislature on the issues described under  
24 AS 44.19.621(a)(6)(A), (C), (D), (E), and (G);

25                                    (3) by July 1, 1996, the commission shall complete the research necessary to  
26 report recommendations to the governor and the legislature on the issues described under  
27 AS 44.19.621(a)(6)(F);

28                                    (4) by January 1, 1997, the commission shall complete the research necessary  
29 to report recommendations to the governor and the legislature on the issues described under  
30 AS 44.19.621(a)(6)(H).

31                                    (b) Upon request of the commission, and for good cause shown, the governor may

1 grant an extension of a deadline set in (a) of this section. The governor shall inform the  
2 legislature of a decision on a request to extend a deadline.

3 \* Sec. 25. AS 09.55.536(f), amended by sec. 5 of this Act, amends Alaska Rules of Civil  
4 Procedure 26 and 27 by providing that discovery may not be undertaken until the expert  
5 advisor's report is received.

6 \* Sec. 26. AS 09.55.536(e), amended by sec. 5 of this Act, amends Alaska Rules of  
7 Evidence 802, 803, and 804 by providing that the expert advisor's report is admissible in  
8 evidence to the same extent as though its contents were orally testified to by the advisor.

9 \* Sec. 27. Section 20 of this Act takes effect July 1, 1994, only if that section receives the  
10 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State  
11 of Alaska.

12 \* Sec. 28. This Act takes effect July 1, 1994.