

## CS FOR SENATE BILL NO. 367(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/25/94  
Referred: Finance

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

## A BILL

## FOR AN ACT ENTITLED

1 "An Act prohibiting a civil action based on professional negligence against a  
2 health care provider by a person who on the date of the negligent act or  
3 omission is less than two years of age, unless the action is brought before the  
4 person's eighth birthday; establishing an advisory committee on a health care plan  
5 and an advisory committee on medical practice; and providing for an effective  
6 date."

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

8 \* Section 1. AS 09.10 is amended by adding a new section to read:

9 Sec. 09.10.065. LIMITATION ON ACTIONS BY CERTAIN MINORS  
10 AGAINST HEALTH CARE PROVIDERS. (a) Notwithstanding AS 09.10.140, an  
11 action based on professional negligence may not be brought against a health care  
12 provider by a person who is, on the date of the alleged negligent act or omission, less  
13 than two years of age, unless the action is brought before the person's eighth birthday.

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

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

6 (2) intentional concealment; or

7 (3) the undiscovered presence of a foreign body, that has no therapeutic  
8 or diagnostic purpose or effect, in the body of the injured person and the action is  
9 based on the presence of the foreign body.

10 (c) In this section,

11 (1) "health care provider" means an acupuncturist licensed under  
12 AS 08.06; an audiologist licensed under AS 08.11; a chiropractor licensed under  
13 AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under  
14 AS 08.36; a marital or family therapist licensed under AS 08.63; a direct-entry  
15 midwife certified under AS 08.65; a nurse licensed under AS 08.68; a dispensing  
16 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an  
17 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical  
18 therapist or occupational therapist licensed under AS 08.84; or a physician's assistant  
19 certified under AS 08.64; a physician licensed under AS 08.64; a podiatrist; a  
20 psychologist and a psychological associate licensed under AS 08.86; a clinical social  
21 worker licensed under AS 08.95; an emergency medical technician certified under  
22 AS 18.08.082; a mobile intensive care paramedic trained as required under  
23 AS 18.08.082; a health maintenance organization as defined in AS 21.86.900; a  
24 hospital or medical service corporation as defined in AS 21.87.330; a hospital as  
25 defined in AS 18.20.130, including a governmentally owned or operated hospital; and  
26 an employee of a health care provider acting within the course and scope of  
27 employment;

28 (2) "professional negligence" means a negligent act or omission by a  
29 physician in rendering professional services;

30 (3) "professional services" means services provided by a health care  
31 provider that are within the scope of services for which the health care provider is

1 licensed, and that are not prohibited under the health care provider's license or by a  
2 hospital in which the health care provider practices.

3 \* Sec. 2. HEALTH CARE PLAN ADVISORY COMMITTEE. (a) The legislature finds  
4 that it is necessary to have reliable information on the specific content and cost of any  
5 proposed mandatory health care plan, before it can be taken to the public for review. The  
6 legislature further finds that questions of a single payer system versus a multi payer system  
7 for any mandatory coverage, and questions regarding inclusion or exclusion of certain groups  
8 of Alaskans who are covered by other federal health insurance, are not prejudiced by the  
9 direction given to the advisory committee created in this section.

10 (b) The Health Care Plan Advisory Committee is established in the Office of the  
11 Governor. The committee consists of seven members who are appointed by the governor as  
12 follows:

13 (1) one person with experience in providing health care services on an inpatient  
14 basis;

15 (2) one person with experience in providing health care services on an  
16 outpatient basis;

17 (3) one person with experience as a health care provider;

18 (4) one person who is an accountant who has experience in health care  
19 insurance;

20 (5) one person who has experience in health care insurance; and

21 (6) two persons who represent the public.

22 (c) Notwithstanding any other provision of law, a committee member is subject to the  
23 provisions of AS 39.50 as if the committee member were a member of a state commission or  
24 board described under AS 39.50.200(b).

25 (d) A committee member is entitled to receive compensation at the rate of \$100 a day  
26 for each day spent in performing duties as a committee member and to travel and per diem  
27 expenses authorized by law for boards and commissions under AS 39.20.180.

28 (e) The committee may

29 (1) establish subcommittees;

30 (2) conduct hearings;

31 (3) employ personnel necessary to complete assigned duties;

- 1 (4) enter into contracts;  
2 (5) subject to appropriation, expend money.

3 (f) By December 15, 1994, the committee shall report to the legislature on the scope  
4 of the health care insurance coverage and the cost of providing health care insurance if health  
5 care insurance were to be offered under the following conditions:

6 (1) participation is mandatory by all state residents; coverage shall include a  
7 spouse and dependent children;

8 (2) health care services that are covered must include preventive care and  
9 immunizations, prenatal care, children's health care, and catastrophic medical expense  
10 coverage;

11 (3) coverage shall be designed to impose a family deductible of \$3,000 for all  
12 covered health care services other than prenatal care, preventive care, and immunizations, and  
13 to allow reimbursement in a calendar year at not more than 80 percent for all covered health  
14 care services, other than prenatal care, preventive care, and immunizations, after the first  
15 \$3,000 in covered expenses; prenatal care, preventive care, and immunizations may be  
16 reimbursed at more than 80 percent for a covered expense; coverage for health care services  
17 that are offered on an outpatient basis shall provide reimbursement for outpatient health care  
18 services at a rate equal to or higher than the rate for inpatient services;

19 (4) premiums shall be set at a single rate for all covered individuals, except

20 (A) a surcharge for coverage of each dependent child or spouse may  
21 be imposed; a surcharge may not exceed 50 percent of the individual premium; it is  
22 the intent of the legislature that the premium be set at a rate that does not exceed \$100  
23 per month or 14 percent of the individual's monthly gross income, whichever is lower;

24 (B) premium rates are allowed to vary depending on whether the  
25 individual smokes or any other factors within the control of an individual, and  
26 depending on whether the individual is less than 30 years of age; a premium may not  
27 vary under a community rating system, other than as specified in this section;

28 (5) a one-year exclusion for preexisting conditions for new enrollees is  
29 imposed; this paragraph does not apply to a person who has resided in the state for at least  
30 one year, or who is less than one year old and was born in this state.

31 (g) By December 15, 1995, the committee shall report to the legislature on

- 1                   (1) the cost of providing health insurance coverage under the following  
2 conditions:
- 3                   (A) coverage shall meet the conditions set out under (f)(1) - (5) of this  
4 section;
- 5                   (B) additional medical benefits are included as recommended by the  
6 committee;
- 7                   (C) the premium for a single person may not exceed \$150 per month;
- 8                   (2) the effect of the following conditions assuming that insurance coverage as  
9 specified under (f) of this section is provided:
- 10                   (A) premium payment is by payroll deduction, employer contribution,  
11 or a combination of employer contribution and payroll deduction;
- 12                   (B) premium payment by an unemployed or self-employed person is  
13 by direct payment;
- 14                   (3) assuming that the state requires all residents to participate in a state health  
15 insurance plan, changes necessary in existing provisions of law to
- 16                   (A) allow integration of optional health insurance plans with the  
17 mandatory insurance plan; the integration should allow an individual or group to  
18 purchase supplemental insurance coverage without duplication of coverage; and
- 19                   (B) discourage health insurance that reimburses covered benefits at a  
20 rate greater than 80 percent of the cost of the benefits;
- 21                   (4) recommended legislation regarding public health issues;
- 22                   (5) recommended legislation to simplify health care administration;
- 23                   (6) recommended legislation regarding antitrust changes necessary to allow the  
24 use of pooled purchasing to reduce the cost of health care if required under federal law;
- 25                   (7) recommended legislation to enact tort reform measures intended to reduce  
26 the cost of health care, including changes to statutes of limitation, contingent fee agreements,  
27 and to the Alaska Rules of Civil Procedure;
- 28                   (8) recommended legislation regarding long-term health care, including  
29 methods to encourage individual savings for the cost of long-term health care;
- 30                   (9) recommended legislation regarding how the state should educate residents  
31 on health care, including how to be a prudent consumer, increasing awareness of provider

1 charges, and a curriculum that should be used in public schools in the state.

2 (h) By December 15, 1995, the committee shall recommend to the legislature  
3 legislation necessary to improve data collection used to control health care expenditures or to  
4 improve the efficiency of the health care system in the state.

5 (i) In this section, "health care provider" has the meaning given in AS 09.10.065(c).

6 \* Sec. 3. MEDICAL PRACTICE ADVISORY COMMITTEE. (a) The Medical Practice  
7 Advisory Committee is established in the Office of the Governor. The committee consists of  
8 four members who are appointed by the governor as follows:

9 (1) two persons licensed under AS 08.64;

10 (2) one person who is a health care provider licensed under AS 08 but who  
11 is not licensed under AS 08.64; and

12 (3) one person who is a health care provider licensed under AS 08 and who  
13 practices in a rural area of the state.

14 (b) Notwithstanding any other provision of law, a committee member is subject to the  
15 provisions of AS 39.50 as if the committee member were a member of a state commission or  
16 board described under AS 39.50.200(b).

17 (c) A committee member is entitled to receive compensation at the rate of \$100 a day  
18 for each day spent in performing duties as a committee member and to travel and per diem  
19 expenses authorized by law for boards and commissions under AS 39.20.180.

20 (d) The committee may

21 (1) establish subcommittees;

22 (2) conduct hearings;

23 (3) employ personnel necessary to complete assigned duties;

24 (4) enter into contracts;

25 (5) subject to appropriation, expend money.

26 (e) By December 15 of each year, the committee shall provide recommendations for  
27 necessary health care reform legislation to the legislature on the following:

28 (1) training necessary for primary health care providers regarding proper  
29 referral of cases;

30 (2) medical practice parameters intended to reduce or eliminate medical  
31 malpractice claims;

1                   (3) required additions or changes in the authority given to health care providers  
2 in order to prudently maximize a health care provider's scope of practice;

3                   (4) obstacles that may arise from federal antitrust laws in allowing health care  
4 providers to join in a peer review process, share price information, or share equipment or  
5 facilities;

6                   (5) recommendations to facilitate the use of video conferencing or other  
7 long-distance communications that allow health care providers with special skills to extend  
8 their practice to remote areas of the state;

9                   (6) the creation of peer review boards to sanction health care providers, to  
10 require approval of certain medical procedures, and to recommend practice incentives.

11                  (f) In this section, "health care provider" has the meaning given in AS 09.10.065(c).

12       \* Sec. 4. Sections 2 and 3 of this Act are repealed June 30, 1996.

13       \* Sec. 5. This Act takes effect July 1, 1994.