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COMMITTEE REPORT

3/8/78

HOUSE

Mr. Speaker:

Date _____

The Committee on JUDICIARY has had SB 113 amended

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman



Ketchikan General Hospital

3100 TONGASS AVE.

Ketchikan, Alaska 99901

May 5, 1975

Representative Terry Gardiner
Chairman House Judiciary Committee
Pouch V
Juneau, Ak. 99811

Re: Senate Bill #113

Dear Representative Gardiner:

I understand that Senate Bill #113 now being referred to the HESS Committee may also be referred to the House Judiciary Committee. If it is I would like to urge you to support it.

In the interest of high quality care and cost containment, Medicare/Medicaid and the Joint Commission on Accreditation of Hospitals mandate that a program of on-going self-evaluation and peer review be carried out in hospitals.

The hospital medical and professional staff, organized to monitor specific aspects of care, includes committees for utilization review, medical audit, medical records, tissue, infection and pharmacy-therapeutics, among others, each committee responsible for a separate component of quality of care.

For this medical care evaluation process to be effective, the staff must look at its own medical performance objectively, rationally, and nonthreateningly with a means to make changes where changes are needed. It must measure the performance of peers against norms of care and medical criteria which the staff itself has set up. Unless the staff is assured of some degree of confidentiality and of immunity from having the records of these review processes subpoenaed, it cannot and will not have free, open and uninhibited discussions. Therefore, it is the concern of the Governing Board, Administration and Medical Staff of this hospital that we obtain this immunity.

Thank you very much for your efforts in obtaining the passage of this bill, Senate Bill #113.

Sincerely,

Sister Ellen Caldwell

Sister Eller. Caldwell
Administrator

SEC:ls

DRS. WILSON AND WILSON, P.C.
ARTHUR N. WILSON, M.D.
JAMES A. WILSON, M.D., F.A.C.S.
ARTHUR N. WILSON, JR., M.D.
P.O. BOX 319
KETCHIKAN, ALASKA 99901

May 5, 1975

Representative Susan Sullivan
House Health Education and Social Services Committee
House of Representatives
Juneau, Alaska 99811

Dear Representative Sullivan:

I am writing this letter to express the views of myself, Dr. Arthur Wilson, Jr. and Dr. James Wilson with respect to Senate Bill 113. Dr. James Wilson has supported action of the kind outlined for several years during the times that he has been Chief of Staff, on the Executive Board of the Ketchikan General Hospital and an officer in the state Medical Society.

I would say that all of the doctors who are on executive boards of the hospitals in Alaska, or who serve on the various Review Committees, want this bill. I have personally spoken to the presidents of the state Medical Society during the last three years--they have told me that attempts have been made to introduce such a bill and have been met with the objection that members of other boards do not get this kind of immunity.

The most recent review board known as the Professional Service Review Organization is being implemented this year. We think there are features of this bill which are unworkable and restrictive, nevertheless it is law and hence must be complied with. Part of the duties of doctors who are on this board will be to look over patients records to determine whether they are getting adequate treatment, whether it is being done on time, whether hospitalizations are unduly prolonged. Any records that show a physician's judgment is faulty, that his treatment is below par, is reported to the Review Board. I think it is obvious that the PSRO member would not want records of their meetings, discussions on cases at hospital staff meetings, available for perusal "in an action brought by a person whose activities have been or are being scrutinized or reviewed by a review organization" to quote the second section of the bill.

Representative Susan Sullivan
May 5, 1975
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Physicians on hospital staffs owe a duty to the patients in the hospital, to the medical profession and the public to see that the practice of medicine is conducted with the utmost skill possible. Physicians who do slip shod work must be corrected. In many instances this can be done quietly, but when it becomes necessary to refuse further hospital privileges to a staff member because of incompetence, the board member who is trying to set high medical standards should be immune from suits. We want these records confidential and not subject to subpoena or discovery as set forth in Section 18-23-030.

42 U.S.C., Section 1320c-1 which mentions disciplinary actions by state licensing boards should also have immunity. At the present time they do not have this.

The above are our ideas of what we want, why we want it. We need it because we don't have it. On reading the bill I have not found any objectionable features.

Very truly yours,

Arthur N. Wilson, Sr., M.D.

Arthur N. Wilson, Sr., M.D.

ANW:kf

CC: George Holman, Senate HESS Committee
Terry Gardiner, House Judiciary Committee

30 113

May 7, 1975

TO: Senator Ziegler

I have spoken to Susan Sullivan regarding SB 113 and she assures me that it will be scheduled in the near future.

Alaska
Regular Session
Chapter Laws
5 BTT No. 113

An Act relating to medical review committees: exempting proceedings of medical review committees from discovery: providing for limitations of liability of medical review committees.

Preface: The public interest lies in the costs of health insurance. These costs are directly related to the costs of hospital and medical services plus the currently mounting problems in the area of medical malpractice insurance.

At this time Federal Law and voluntarily the Joint Committee on Accreditation of Hospitals (J.C.A.H.) are requiring and various health services, professional societies and associations in the State of Alaska are promulgating programs and establishing committees for the purpose of reviewing professional credentials and standards of care, utilization and expense in the rendering of health services. Such review is an effort to deter or eliminate some of the causes of increased claims and costs of providing health services and to provide a statistical basis for further analysis and recommendations.

The public interest is thus best served by providing immunity for peer review committees so that the medical profession can with candor evaluate the credentials and competence of professional peers in connection with hospital staff appointment reappointment and the delineation of clinical privileges; can explore over utilization of medical services, problems of charges for medical services and alleged acts of malpractice in order that it can better influence its members and can better document the experience rate of its physicians and thus help improve both quality and costs of health care delivery.

Section 1. a) medical review committee - definition as used in this section, the term "medical review committee" or "committee" shall mean a committee, which may include professional and administration staff members, of a state or local professional society, or of a medical staff or a licensed hospital or nursing facility, provided the medical staff operates pursuant to written by laws that have been approved by the governing body of the hospital or nursing facility, which is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care: or that the cost of health care rendered was considered reasonable by the providers of health services in the area.

b) medical review committee, immunity from discovery.

The proceedings and records of committees as described in 1 (a) shall not be subject to discovery or introduction into evidence in any civil action against a provider of professional health services arising out of matters which are the subject of evaluation and review by such committee and no person who was in attendance at a meeting of such committee shall be permitted or regarded to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any members thereof; provided, however, that information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, nor should any person who testi-

files before such committee or who is a member of such committee be prevented from testifying as to matters within his knowledge, but the said witness can not be asked about his testimony before such a committee or opinions formed by him as a result of such committee hearings.

c) medical review committee, limitation of liability.

No person who is a member or employee of, who acts in an advisory capacity to who furnishes counsel or services to a medical review committee (1a) shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a medical review committee, by reason of the performance by him of any duty, function or activity of such a committee, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No person shall be liable for damages or other relief in any action by reason of the performance of him of any duty, function or activity as a member of a review committee when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or the committee after reasonable efforts to ascertain the facts upon which the medical review committee action or recommendation is made.

MEMO May 2, 1975
FROM SENATOR ZIEGLER
TO REPRESENTATIVE SULLIVAN
RE SB 113

House HESS just received the captioned bill which was given a secondary referral to House Judiciary.

I am attaching copies of correspondence which may be helpful to you. It is a good bill, I feel, and one which is badly needed by hospitals, clinics, the medical profession and so on.

It is about the only piece of personal legislation I would like to see fly and, if there's anything you can do to move it along, I would be appreciative.

RHZ/pkz

enc.

cc ✓ Representative Gardiner

Senator Robert Zeigler
Page 2

DRS. WILSON AND WILSON, P.C.
ARTHUR N. WILSON, M.D.
JAMES A. WILSON, M.D., F.A.C.S.
ARTHUR N. WILSON, JR., M.D.
P.O. BOX 319
KETCHIKAN, ALASKA 99901

Physicians on hospital staffs owe a duty to the patients in the hospital, to the medical profession and the public to see that the practice of medicine is conducted with the utmost skill and competence.

March 12, 1975

Senator Robert Zeigler
Pouch V
Juneau, Alaska 99811

Dear Senator Zeigler:

I am writing this letter to express the views of myself and Dr. Arthur Wilson, Jr. with respect to Senate Bill 113. Dr. James Wilson is out of town. He has supported action of the kind outlined for several years during the times that he has been Chief of Staff, on the Executive Board of the Ketchikan General Hospital and an officer in the state Medical Society.

I would say that all of the doctors who are on executive boards of the hospitals in Alaska, or who serve on the various Review Committees want this bill. I have personally spoken to the presidents of the state Medical Society during the last three years--they have told me that attempts have been made to introduce such a bill and have been met with the objection that members of other boards do not get this kind of immunity.

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Senator Robert Zeigler

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Very truly yours,

Arthur N. Wilson, Sr., M.D.

Arthur N. Wilson, Sr., M.D.

ANW:kf

CC: Robin Taylor, Attorney
Sister Ellen Caldwell
Rodman Wilson, M.D.

Ketchikan Medical Clinic

3612 TONGASS
KETCHIKAN, ALASKA 99901

J. W. Mortensen, M. D.

H. J. Henrickson, M. D.

D. E. Johnson, M. D.

Phone 225-3144

Phone 225-3145

March 25, 1975

Senator Robert H. Ziegler
Pouch V
Juneau, Alaska 99811

Dear Senator Ziegler:

I am writing to you in reference to Senate Bill No. 113, regarding the availability of hospital medical audit minutes to the courts.

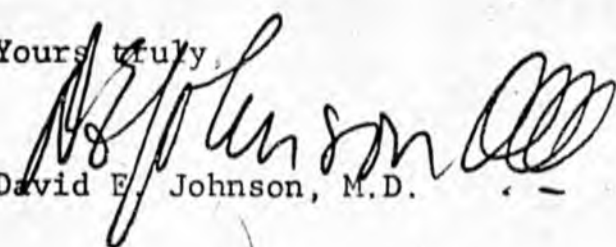
As a practicing physician and as a participant in the Professional Standards Review Organization for Alaska, I am very concerned that our work in reviewing medical care be done in the most frank and completely honest manner possible. It is only if this is true, that the audit will perform its function in assuring that each patient receives the best possible care.

If audit is not preserved separate and distinct from any external inquiry, physicians will be considerably less than forthright in their analyses, to protect themselves from litigation as well as to protect their colleagues. Audits, then, would simply be an elaborate charade.

Because I believe that auditing is important, I earnestly request that you report out this bill favorably from your committee and that you support it on the Senate floor.

Thank you for your assistance in this matter.

Yours truly,


David E. Johnson, M.D.