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Official Business

# Alaska State Legislature

*Senate*

*Committee on Finance*

Pouch V  
State Capitol  
Juneau, Alaska 99811

CSSB 548. (Finance)

This short sectional analysis describes the one change made in the Senate Finance Committee Substitute to the Senate Labor & Commerce Committee Substitute.

Section 3 of the bill is tightened to allow coverage to other hazards only when such other hazards are customarily included in medical malpractice insurance, and further restricts such coverage for other hazards to instances where the coverage is not competitively available from private insurance companies.

Distributed 18 March 1982  
Senator Arliss Sturgulewski



# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### CS SB 548; Sectional Analysis:

"An act relating to the Medical Indemnity Corporation of Alaska"

Section 1): Amends AS 21.88.030(a)(3) to read: (3) Two professionals from the insurance industry who are authorized to do business in the State. The current statute reads "insurance companies authorized" and the proposed change would allow for persons who are agents or brokers (insurance industry professionals) to have board membership.

Section 2): Amends AS 21.88.050(a)(1) provides for a substantive change to permit "tail coverage" (retroactive insurance) to cover malpractice claims. New language states: at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician for any period before the contract is issued except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased.

Section 3): Amends AS 21.88.050 (b) (3): Provides coverage to insureds for other hazards when approved by the director; Encompasses insurance coverage for premises liability for circumstances in which an injury occurs on the premises as a result of "an omission of health care" by a physician or medical staff. Example: Inadvertantly, the rail on a hospital bed is left down, and a patient sleeping under medication falls from the bed, injuring himself on the premises. The injury resulted from an "omission in health care" by the attending nurse, and should be covered as such.

Section 4): Repeals and reenacts AS21.88.050(b)(12) to extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician. Expanded coverage for health care providers such as "bush medicine teams" who don't ordinarily fall within the conventional definition.

Section 5): Repeals and reenacts AS21.88.080 (17): Major change allows for a sliding

scale" assessment levied upon insureds in the event that the earned premiums for any given year are less than the incurred claims, claim expenses, underwriting expenses, and reserves. Presently, by statute, the director of the Division of Insurance must assess 150% on the premiums for all insureds if the earned premiums fall beneath incurred claims and expenses. Although this condition has never occurred, if it were to happen in the future, and if the director determines there is sound actuarial basis for the extinguishment of the assessment, the director would be able to extinguish all or a portion of the assessment.

Section 6: Amends AS 21.88.900 (17) (a) Deletes the phrase (DURING THE SAME PERIOD OF CONTINUOUS COVERAGE) to provide consistency throughout the MICA statutes for the ability to offer "tail coverage" (retroactive insurance) to insureds to cover claims which occurred prior to MICA coverage.

Section 7: Relates to the purpose of the bill which would allow MICA to remain more competitive within the marketplace and better fulfill its obligations to the medical community.

Section 8: Amends section 21(b), CH 177, SLA 1978; Technical change to permit "tail coverage" through the deletion of the following language: (WHICH OCCUR AFTER THE EFFECTIVE DATE OF THIS ACT).

Additional Information: The Division of Insurance estimates there are 400 licensed physicians in the State, including part time and retired physicians. There are presently 137 MICA insured physicians, with 33 new enrollees this quarter, demonstrating more faith among the medical community in the program.

MEDICAL INDEMNITY CORPORATION OF ALASKA

(AS 21.88.030) 9 members; 4 physicians licensed in the state with no more than 2 of the physicians living in a municipality having a population of more than 100,000, and administrator or chief executive officer employed by a hospital, 2 professional insurance representatives, and 2 persons who are not health care providers or representatives of the insurance industry. 3-year terms, serve at the pleasure of the governor.

CONTACT 276-0005

MEMBERS	REPLACING	APPT.	TERM
Mr. William Brock 1700 Angus Way Juneau, Alaska 99801 (Public)	ORV ARVIDSON	Reappointed	79/07/09 82/07/01
Charles H. Rigden 6715 Blackberry Street Anchorage, Alaska 99502 (Chairman - Public)	CHMN	Reappointed	80/06/26 83/07/01
Mr. David Frazier Bluefit Brokers 2636 Shepherdia Drive Anchorage, Alaska 99504 (Insurance)		Reappointed	79/06/09 82/07/01
David Gaumn, M.D. 1919 Lathrop Fairbanks, Alaska 99701 (Physician)	Bruce J. Wolf M.D.		79/07/09 82/07/01
Lee Olson 4060 B Street, Suite 104 Anchorage, Alaska 99503 (Insurance)	Gregory A. Brown		80/06/28 83/07/01
James Baldauf, M.D. 3300 Pr ence Anchorage, Alaska 99504 (Physician)			77/12/08 81/07/01
Mr. James Burns Box 97 Auke Bay, Alaska 99821 (Administrator)	Charles Rigden (effective 79/09/10)		79/09/21 81/07/01
Estol R. Belflower, M.D. Box 3-3000 Juneau, Alaska 99801 (Physician)			78/07/20 81/07/01
Robert D. Whaley, M.D. 1546 Coffey Lane Anchorage, Alaska 99501 (Physician)		Reappointed	80/06/26 83/07/01

CONTACT AGENCY:

Division of Insurance, Department of Commerce and Economic Development  
Pouch D, Juneau, AK 99811  
(465-2515)  
ID #1 (F-6)

COMMITTEE REPORT  
SENATE

5/5/81

FURTHER: Finance

Date: 25 JANUARY 1982

Mr. President:

The Committee on LABOR & COMMERCE has had SB 548  
Medical Indemnity Corp. of Alaska

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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[Signature]  
CHAIRMAN

not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal

of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.040. Corporation plan of operation.** (a) Within 30 days after May 29, 1976, the board of governors shall prepare and submit to the director for approval a plan of operation which provides for the fair and reasonable administration of the affairs of the corporation and the discharge of the purposes for which it is created. The plan and any amendments to it become effective upon the director's approval. If the board of governors fails to submit a plan of operation, or if at a subsequent time the board of governors fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate a plan of operation or amendments which are necessary or advisable to carry out the provisions of this chapter. Adoption of the plan is not subject to the Administrative Procedure Act (AS 44.62).

(b) The plan of operation shall

- (1) establish the procedures by which all the powers and duties of the corporation specified in AS 21.88.050 shall be performed;
- (2) establish procedures for handling assets and discharging liabilities of the corporation;
- (3) establish regular times and places for meetings of the board of governors;
- (4) establish procedures for records to be kept of all financial transactions of the corporation, its agents, and the board of governors;
- (5) establish the procedures for awarding contracts to carry out the provisions of this chapter;
- (6) establish the procedures for issuing contracts of insurance as provided in AS 21.88.050 and for the determination of rates;
- (7) contain additional provisions necessary for the execution of the powers and duties of the corporation. (§ 41 ch 102 SLA 1976)

**Sec. 21.88.050. Powers and duties of the corporation.** (a) The corporation shall

- (1) in the form approved by the director, issue to all physicians and hospitals who are found to be acceptable risks under standards developed under (8) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought

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under AS 09.55.530 — 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the physician or hospital and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician or hospital for any period after December 31, 1974, if the coverage is issued before January 1, 1977, except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) Repealed by § 40 ch 177 SLA 1978.

(3) Repealed by § 40 ch 177 SLA 1978.

(4) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors in accordance with AS 21.88.080 and subject to the approval of the director;

(5) comply with or be subject to AS 21.06.090; 21.06.120; 21.06.140; 21.06.160; 21.06.250; 21.09.180; 21.09.190; 21.09.200; 21.09.250; 21.09.280; 21.12.020(b), (c), (d), and (e); and 21.18, 21.21, 21.24, and 21.36; and shall be exempt from participation as a member insurer in the Alaska Insurance Guaranty Corporation;

(6) carry out the obligations of the contracts issued by the corporation by defending all covered claims made against insured health care providers and by paying all liabilities which are finally adjudicated against the insured health care provider or which may in the opinion of the corporation reasonably be expected to be finally adjudicated against the health care provider to the extent of the contract obligation;

(7) Repealed by § 40 ch 177 SLA 1978.

(8) establish standards for the acceptability of risks; in establishing these standards the corporation may exclude an applicant for insurance based on individual risk selection factors, but may not exclude an applicant based only on the classification of the applicant.

(b) The corporation may

(1) employ or retain persons, individual or corporate, to discharge its obligations and pay reasonable compensation for these services; employees of the corporation are not considered state employees;

(2) negotiate for and procure reinsurance from private casualty insurers or reinsurers for any and all liability incurred by contracts issued by it;

(3) provide coverage to physicians and hospitals for other hazards when there is a finding by the director that this coverage is otherwise unavailable by reason of the operation of the corporation;

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defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.070. Statistics.** The corporation shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the corporation shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics including the supplemental reports shall be made available to the State Medical Board. (§ 41 ch 102 SLA 1976; am § 14 ch 177 SLA 1978)

**Effect of amendment.** — The 1978 amendment added "which it insures" to the end of the first sentence, and in the sixth sentence, inserted "including the supplemental reports" and substituted "State Medical Board" for "appropriate licensing board or agency."

**Editor's note.** — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may

not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.080. Rates.** The rates and rating plans used by the corporation for the policies issued shall be determined by license category of health care providers in accordance with all of the following:

- (1) Repealed by § 40 ch 177 SLA 1978.
- (2) Repealed by § 40 ch 177 SLA 1978.
- (3) a minimum rate may be set for each category of health care provider or discipline or classification within the license category;
- (4) rates may not be excessive; rates are excessive if, after a period of time and with respect to an amount of gross premium which is actuarially credible, the premiums exceed losses incurred by the corporation, including losses paid, reserves for covered claims reported

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and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(5) rates shall not be inadequate; rates are inadequate if, based on available actuarial data, the premiums to be paid by the health care providers are or may reasonably be expected to be insufficient to pay for losses incurred by the corporation, including covered claims paid, reserves for covered claims reported and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(6) rates may not be unfairly discriminatory;

(7) rates shall be adjusted annually;

(8) rates for any policy year shall be calculated to include the adjustment for actual experience of the corporation as developed for the preceding four policy years;

(9) in considering losses to be incurred, changes in the law, national, regional or local trends in medical negligence awards, and other relevant factors may be considered;

(10) income from the investment of reserves shall be considered;

(11) individual risk underwriting factors shall be considered;

(12) disciplines and classifications within the license categories of health care providers shall be considered;

(13) amounts sufficient for repayment of loan obligations shall be considered;

(14) Repealed by § 40 ch 177 SLA 1978.

(15) if the earned premiums of the corporation for any given year are less than the incurred claims, claim expense, underwriting expense, reserves for that year and provision for repayment of any loans, the corporation may, subject to the prior approval of the director, levy an assessment upon the insureds who held policies during that year; the assessment, which may be made in periodic installments, shall be made within three years and may not exceed 150 per cent of the insured's premium for that year; the termination of any policy does not relieve the insured of contingent liability for his proportionate share of the obligations to the corporation which accrued while the policy was in force;

(16) if the earned premiums of the corporation for any given year exceed its incurred claim expense, underwriting expense, reserves for that year and provision for repayment of any loan, the corporation may, subject to the prior approval of the director, apportion and pay or credit its insureds who held policies during that year; a payment or credit shall be proportionate to the insured's earned premium for that year;

(17) if the corporation develops a surplus of assets over all liabilities, including the repayment of any loan provision, which is at least equal to the minimum capital stock required of a new domestic stock insurer

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other obligations of the corporation except that they shall be subordinated to obligations of policyholders and claimants for indemnity of loss; these loans shall be repaid within five years at an annual interest rate of six per cent.

(c) If a loan is made to the corporation from the fund, the corporation shall issue a note to the fund as evidence of the loan.

(d) The director may sell at par value to the Department of Revenue the notes, security instruments and pledge agreements held by the Department of Commerce and Economic Development as security for loans made under this section. The Department of Revenue shall purchase all the notes offered until the current principal amount of the notes purchased and held by the Department of Revenue equals \$6,000,000. (§ 41 ch 102 SLA 1976; am §§ 17, 18 ch 177 SLA 1978; am § 6 ch 103 SLA 1980)

Effect of amendments. — Section 17, ch. 177, SLA 1978 substituted "seven per cent a year" for "four percentage points above the annual rate charged member banks for advances by the 12th federal reserve district" at the end of the first paragraph of subsection (b). Section 18 of ch. 177 substituted the language beginning "director determines" and ending "incurred by contracts issued by it" for "corporation adopts the approach of § 50(a)(3)(A) of this chapter" near the beginning of paragraph (2) of subsection (b).

The 1980 amendment substituted "earned" for "collected" near the middle of paragraph (1) of subsection (b).

Editor's note. — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

Article 5. General Provisions.

Section

900. Definitions

Sec. 21.88.900. Definitions. In this chapter

(1) Repealed by § 40 ch 177 SLA 1978.

(2) "corporation" means the Medical Indemnity Corporation of Alaska;

(3) "governor" means a member of the board of governors of the Medical Indemnity Corporation of Alaska;

(4) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a

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pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; a corporate entity covered under AS 21.88.050(b)(12); and an employee of a health care provider acting within the course and scope of his employment;

- (5) "physician" means a person licensed under AS 08.64;
- (6) "hospital" means an institution licensed under AS 18.20;
- (7) "chiropractor" means a person licensed under AS 08.20;
- (8) "dental hygienist" means a person licensed under AS 08.32;
- (9) "dentist" means a person licensed under AS 08.36;
- (10) "nurse" means a person licensed under AS 08.68;
- (11) "dispensing optician" means a person licensed under AS 08.71;
- (12) "optometrist" means a person licensed under AS 08.72;
- (13) "pharmacist" means a person licensed under AS 08.80;
- (14) "physical therapist" means a person registered under AS 08.84;
- (15) "psychologist" and "psychological associate" means a person licensed under AS 08.86.

(16) "continuous coverage" means one or more successive policy periods which is uninterrupted by cancellation or failure to renew for any reason;

(17) "covered claim" means

(A) a claim by an injured patient reported to the corporation during the period of continuous coverage by the corporation of the insured health care provider for an act or omission in the delivery of health care services during the same period of continuous coverage; and

(B) additional claims as defined in the policy, with the prior approval of the director, and which are reported within specified periods after the expiration of the policy. (§ 41 ch 102 SLA 1976; am §§ 19, 20, 40 ch 177 SLA 1978)

**Effect of amendment.** — Section 19, ch. 177, SLA 1978 rewrote paragraph (4). Section 20 of ch. 177 added paragraphs (16) and (17). Section 40 of ch. 177, SLA 1978 repealed paragraph (1), which defined "association."

**Editor's note.** — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

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his own name against the officer and his sureties to recover the amount to which he may be entitled. (§ 16.01 ch 101 SLA 1962)

Am. Jur. reference.—50 Am. Jur., Suretyship, §§ 27, 28.

Sec. 09.55.480. Subsequent actions on same undertaking. A judgment in favor of a party for one delinquency does not preclude the same or another party from maintaining another action on the same undertaking or other security for another delinquency. (§ 16.02 ch 101 SLA 1962)

Sec. 09.55.490. Amount of judgment. In an action upon an official undertaking or other security, if judgment has already been recovered against the surety therein other than by confession equal in the aggregate to the penalty or a part of the penalty of the undertaking or other security and if the recovery be established on the trial, judgment shall not be given against the surety for an amount exceeding the penalty or such portion of the penalty as is not already recovered against him. (§ 16.03 ch 101 SLA 1962)

Sec. 09.55.500. Actions for fines or forfeitures. Fines and forfeitures may be recovered by an action in the name of the state or the officer or person to whom they were given by law, or in the name of the state, officer, or person who is authorized to prosecute for them. (§ 16.04 ch 101 SLA 1962)

Sec. 09.55.510. Amount which may be claimed and recovered. When an action is commenced for a penalty which by law is not to exceed a certain amount, the action may be commenced for that amount, and, if the judgment is given for the plaintiff, it may be for that amount or less, in the discretion of the court, in proportion to the offense. (§ 16.05 ch 101 SLA 1962)

Sec. 09.55.520. Collusive judgment not a bar to another action. Recovery of a judgment for a penalty or forfeiture obtained by collusion between the plaintiff and defendant with intent to save the defendant wholly or partially from the consequence contemplated by law in cases where penalty or forfeiture is given wholly or partly to the person who prosecutes, does not bar the recovery of a penalty or forfeiture by another person in a separate action. (§ 16.06 ch 101 SLA 1962)

Article 6. Malpractice Actions.

- Section
- 530. Declaration of purpose
- 540. Burden of proof
- 550. Jury instructions

Sec. 09.55.530. Declaration of purpose. The legislature considers that there is a need in Alaska to codify the law with regard

to medical liability in order to establish that the law in Alaska in this regard is the same as elsewhere. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Sec. 09.55.540. Burden of proof. (a) In a malpractice action based on the negligence of a physician licensed under AS 08.64, or a dentist licensed under AS 08.36, the plaintiff shall have the burden of proving

(1) the degree of knowledge or skill possessed or the degree of care ordinarily exercised by physicians or dentists practicing the same specialty in similar communities to that in which the defendant practices;

(2) that the defendant either lacked this degree of knowledge or skill or failed to exercise this degree of care; and

(3) that as a proximate result of this lack of knowledge or skill or the failure to exercise this degree of care the plaintiff suffered injuries that would not otherwise have been incurred.

(b) In malpractice actions there shall be no presumption of negligence on the part of the defendant. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Requirements of surgeon's report.—It is incumbent upon a surgeon to describe accurately and fully in his report of an operation everything of consequence that he did and which his trained eye observed during an operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

To have maximum probative force, the report should be dictated immediately after the operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Informing patient of hazards of operation.—There is good law in support of the argument that a doctor need not inform the patient of all the hazards involved in an operation; that doctors frequently tailor the extent of their cooperative warnings to the particular patient to avoid the

unnecessary anxiety and apprehension which such appraisal might arouse in the mind of the patient. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Absence of surgeon's personal recollection or of recorded facts no defense.—Under the circumstances of the instant case, the court would not permit the absence of a surgeon's personal recollection or of recorded facts to serve as a defense in an action for malpractice. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Prima facie case of negligence.—See Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964)

Failure of trial court to make finding of lack of informed consent was not clearly erroneous. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Sec. 09.55.550. Jury instructions. In medical malpractice actions the jury shall be instructed that the plaintiff has the burden of proving, by a preponderance of the evidence, the negligence of the physician or dentist. The jury shall be further instructed that in-

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jury alone does not raise a presumption of the physician's or dentist's negligence. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Article 7. Actions by or Against Deceased Persons.

Section

570. All causes of action survive

580. Action for wrongful death

Sec. 09.55.570. All causes of action survive. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. (§ 4 ch 78 SLA 1972; am § 34 ch 56 SLA 1973)

Revisor's note (1972).—This section was taken from former AS 13.20.330 which, in turn, was taken from § 61-7-1, ACLA 1949, as amended.

Effect of amendment.—The 1973 amendment substituted "personal representatives" for "executors or administrators" in the second sentence.

Legislative committee report.—For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

Legislative intent.—The intent of

the legislature inferred from the 1949 amendment to this section, is that actions no longer abate when the wrongdoer dies, but do abate when the injured party succumbs from noncausally connected matters. O'Dey v. Matson, 17 Alaska 763 (1958).

Section 43-3-10, ACLA 1949, did not repeal by implication this section and AS 13.20.340. Andersen v. Pacific S.S. Co., 8 Alaska 291 (1931).

Am. Jur. reference.—1 Am. Jur., Abatement and Revival, § 68 et seq.

Sec. 09.55.580. Action for wrongful death. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents. When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 548

Title An act relating to the medical indemnity corporation of Alaska -

Requested by Colletta Date 5/5/81

(as.21.88)

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
<b>TOTAL</b>	<b>0</b>					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE May 12, 1981

PREPARED BY Kenneth C. Moore Director of Insurance

AGENCY Commerce & Economic Development

PHONE 465-2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Name)