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HOUSE COMMITTEE REPORT

(7)

Date Referred: May 4, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 2/8/90

The LABOR & COMMERCE Committee considered:

HB 337

HOUSE BILL NO. 337

[MALPRACTICE INSURANCE]

"An Act relating to malpractice insurance for health care providers."

RECOMMENDATIONS:

- [] be replaced with CS HB 337 (LHC) [] the same title
[] a new title
[] have attached amendment(s)
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

David Donley
[Signature]
[Signature]

SIGNING: (Check approb column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>	X		
<u>[Signature]</u>	✓		
<u>[Signature]</u>		X	

David Donley
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: An Act relating to malpractice insurance for health care providers BRU: Insurance
 Sponsor: House Labor and Commerce Committee Components: Operations
 Requestor: House Labor and Commerce Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	50.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.0					

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	50.0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Due to the substantial number of malpractice coverage filings that would be received and the time that would be required to adequately review them, the division would contract out for the review.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 11/30/89

Approved by Commissioner: Larry Merculieff Date: _____
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
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TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

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Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 11/30/89

Approved by Commissioner: Larry Merrill Date: 1/10/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impaired Agency(ies)



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Commerce & Econ. Dev.	DIVISION Insurance	BILL NUMBER HB 337	SPONSOR Labor & Commerce Committee
SHORT TITLE OF BILL Malpractice Insurance for Health Care Providers			
DEPARTMENT POSITION Neutral			
PREPARED BY <i>[Signature]</i>	DATE 11/4/89	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 16 Jan 90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Unknown	CONSTITUENT GROUPS AFFECTED BY BILL Hospitals and Physicians
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

ANALYSIS OF BILL/PROGRAM EFFECTS

It appears that the intent of this legislation is for a physician to provide a hospital malpractice coverage for liability arising out of the physician's medical practice. As drafted, however, it does not limit the coverage requirement to the vicarious liability of the hospital. As a result, liability for the negligence of the hospital might be transferred to the physician.

As drafted, the required provision only applies to an insurance policy, not to the physician. An issue currently exists in which uninsured physicians practice at hospitals. This provision might increase the disincentives for carrying insurance.

It is probable that as written this legislation would result in a substantial premium increase for health care providers.

AMENDMENTS PROPOSED

mm1381t

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

HB 337

Analysis of Bill/Program Effects:
(Continued)

The fiscal impact for the division would be moderate to substantial. The division would receive a number of filings providing the additional coverage which would require substantial time to establish an appropriate rate which would be neither inadequate nor excessive.

SG/mm1381t
080789c

HOUSE COMMITTEE REPORT

2/16

(7)
Date Referred: May 4, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 2/8/90

finance ?

The LABOR & COMMERCE Committee considered:

HB 337

HOUSE BILL NO. 337

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RECOMMENDATIONS:

- be replaced with CS HB 337 (LHC) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

FIN

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact C.E.I. fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING: (Check appropr. column)

Do Not Pass No Rec Amend

SIGNING DO PASS:		SIGNING:			
		(Check appropr. column)	Do Not Pass	No Rec	Amend
<u>David Donley</u>	DONLEY	<input checked="" type="checkbox"/>			
<u>Arthur Gruenberg</u>	GRUENBERG	<input checked="" type="checkbox"/>			
<u>Sam Finkelstein</u>	FINKELSTEIN	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>

David Donley
Chairman's Signature

MICA Medical Indemnity Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907)563-3414

February 13, 1990

Representative Dave Donley, Chairman
Labor and Commerce Committee
House of Representatives
State of Alaska
PO Box V
Juneau, Alaska 99811

Dear Chairman Donley:

I testified in front of the House Labor and Commerce Committee and was requested to submit my comments in writing. Please share this written testimony with the other committee members.

Chairman Donley and Committee members, I am Mary Pierce, Executive Director of MICA.

* CSHB334 - Requiring insurance of outstanding judgement.

We wanted to make a few brief informational comments on this bill. We, like all insurance companies, have underwriting requirements to write physicians. We do gather previous claims experience and our Underwriting Manager and the Underwriting Committee may not cover an applicant based upon that experience. In other words, we do not offer insurance coverage to all applicants. If this bill is passed we wanted the committee to know that physicians with an outstanding judgement may not be able to procure coverage and therefore not able to practice.

* CSHB336 - Medical Malpractice Advisory Panels.

We feel strongly that if current Medical Malpractice Advisory panels are to work they need to be comprised of experts, more importantly specialists who can understand the technical medical procedures and make assessments that offer the judge and both parties accurate medical conclusions.

We fight now to obtain the appropriate physicians specialist on a panel. It does no good whatsoever to have a family practitioner on a panel where we have technical complications involving an orthopedic procedure. We feel that adding lay people to this panel would not make it any better. In fact, the time the panel would need to review a case would increase as the physicians would have to educate the lay people.

We ask you to not further dilute the credibility of the panel but in fact maintain it as an "expert" advisory panel membered with medical experts. We suggest that lay people have a place in the system and that is on the jury. If you must put a lay person on the panel to make sure the doctors play straight then please make them non-voting members on these highly technical issues.

Medical Indemnity Corporation of Alaska

* CSHB337 - Mandatory insurance requirements for hospitals.

Our comments here are similar to HB334. We do have underwriting requirements for hospitals. We are concerned since we are the only company offering coverage in the state to the rural hospitals that we may not chose to underwrite a hospital. We want the committee to understand that we are unwilling to compromise our standards because the strength and stability of those standards allow us to continue in business. We are not interested in becoming a substandard market or acquiring risks that may lead to our insolvency. It is our commitment to be here to write malpractice for the majority.

HB349 - Money from Medical Malpractice Revolving Loan Fund.

This fund was established to fund the operations of MICA. We have borrowed from it twice and have an outstanding balance of \$2,402,286 on the first note and \$800,000 on the second note. This fund has been important to us both in our original capitalization and also as surplus. This surplus is critical when being reviewed by reinsurers because it helps add stability to our small company. Needless to say, we are concerned about any depletion to the fund.

HB350 - Matching Fund.

We are certainly supportive of the concept of a matching fund. We do have some questions regarding this in legislation.

First of all, I believe I understand the intent of the formula but for the life of me, I can't get it to work. Perhaps someone can explain it to me.

We are also curious as to a definition of the term "rural" as it applies to the bill.

Finally, we have some concerns if we are to administer this fund.

- 1) The first is a potential restraint of trade problem that might occur by a physician with another carrier being denied access to the fund. It is at the very least a potential conflict of interest.
- 2) Secondly, if we do administer it we are concerned with the increase in administrative costs to us. Our question is therefore one of developing a budget and receiving compensation to administer the fund.

Again, we don't disagree in concept to the idea of a matching fund but do have questions regarding the mechanics.

Thank you for your time. I will be happy to answer any questions.

Sincerely,



Mary A. Pietce
Executive Director

MICA Medical Indemnity
Corporation of Alaska

ALEUT PLAZA
4000 OLD SEWARD HWY., SUITE 203
ANCHORAGE, ALASKA 99503
(907) 563-3414

February 14, 1990

Representative Max Gruenberg, Co-Chairman
Judiciary Committee
House of Representatives
State of Alaska
PO Box V
Juneau, Alaska 99811

Re: CSHB337

Dear Representative Gruenberg:

At a recent House Labor and Commerce Committee hearing you had requested information regarding additional premiums hospitals would have to pay if the committee substitute was passed requiring limits of liability of \$1,000,000 per occurrence. This memorandum lists the hospitals we currently insure, their current limits and the additional premium required if applicable.

The Labor and Commerce Committee discussed adding an amendment to CSHB337 to allow self-insured hospitals meeting certain financial qualifications, to be exempted. I would also like to bring to your attention another group of hospitals that currently fall under the bill requirements for mandatory insurance.

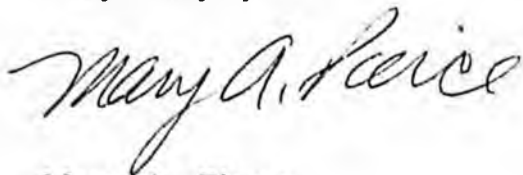
Alaska Native Health Service hospitals and certain Tribal Contractor hospitals fall under the protection of the federal government. Until a couple of years ago we provided insurance to the Tribal Contractor facilities but the Federal Tort Claims Act of 1987 now provides for the U.S.A. to cover both the hospitals and physicians for malpractice. It seems to me you may want to write some exclusionary language for them also.

Medical Indemnity Corporation of Alaska

MICA Insured Hospital	Current Limits of Liability	Current Premium	Add'l Premium to increase to \$1,000,000
Bartlett	1M/3M	448,682	
Seward General	500/1M	59,837	27,669
Sitka Comm.	500/1M	92,265	42,379
So. Peninsula	500/1M	133,541	47,617
St. Ann's Nursing	1M/2M	88,717	
Valdez Comm.	1M/3M	52,179	
Valley Hospital	500/1M	267,697	124,942
Wrangell Gen.	500/1M	39,556	14,540

I hope this answers your questions. Please feel free to contact me for additional information.

Very truly yours,



Mary A. Pierce
Executive Director

HB 337

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



February 6, 1990

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed CS for HB 337 (L&C)
Work Order # 6-1322E, by Ford, dated 2/5/90

The proposed CS for HB 337 (L&C) requires all hospitals in the state to be insured under a malpractice insurance policy when the hospital:

- a. receives public funding or
- b. is required to obtain a certificate of need under AS 18.07.031 or
- c. acts under a certificate of need issued under AS 18.07.040 or 18.07.071.

Required insurance under the Act must provide minimum coverage of \$500,000 for injury or death to one person resulting from one incident and \$1,000,000 for injury or death to more than one person resulting from one incident.

dd/gbs90
b/hb337-1