

H B

3 3 4

HB334

LAW OFFICES

*Mestas & Schneider, P.C.*DENNIS M. MESTAS
MICHAEL J. SCHNEIDER880 "N" STREET, SUITE 202
ANCHORAGE, ALASKA 99501-3298AREA CODE 907
277-4881

January 30, 1990

VIA FAX AND MAILRepresentative Dave Donley
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811Re: HB 334: "An Act Requiring Certain Persons Who Are In A
Regulated Occupation or Profession to Obtain
Malpractice Insurance"

Dear Representative Donley:

As I understand it, hearings will be held on this bill in the immediate future. I have two concerns about this piece of legislation. They are:

1. Why does the professional get one free bite?
2. Why is the amount of required insurance only \$100,000.00?

The way this bill is written, there is no insurance requirement until judgment has been entered. That means an offending professional must screw up, get caught at it, and have a case prosecuted to judgment against the professional before the Act even applies. If the professional is judgment proof to begin with, claimants will not seek a judgment, as it is a waste of time. Once judgment is entered against a professional, there is no obligation in this legislation to discharge the judgment. In other words, a professional can satisfy the law, even though outstanding judgments exist against that individual, by simply securing \$100,000 of professional liability insurance for future acts. None of us should get "one free bite."

One hundred thousand dollars sounds like a lot of money, but, really, it is a very small amount of money if you're talking about doing serious litigation against professionals. This is

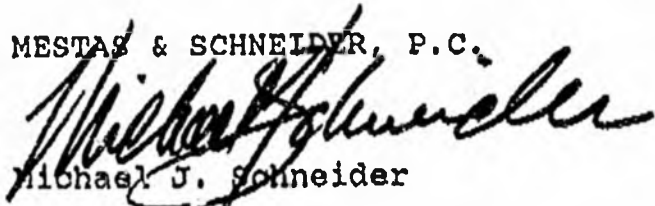
Representative Dave Donley
Page Two
January 30, 1990

particularly true when the professionals are doctors or lawyers. The fact is that many of us are in a position to do much more than \$100,000 damage to our clients. In my personal opinion, the limit proposed in this bill is certainly better than nothing, but inadequate nonetheless.

Contact me if you have any further questions.

Sincerely yours,

MESTAS & SCHNEIDER, P.C.


Michael J. Schneider

kc

cc: Kent Dawson (via fax)

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 334

HOUSE BILL NO. 334 [REQUIRE PROFESSIONAL LIABILITY INSURANCE]
 "An Act requiring certain persons who are in a regulated occupation or profession to obtain malpractice insurance."

RECOMMENDATIONS:

- be replaced with CS HB 334 (LIC) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

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

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note DCED INSURANCE zero fiscal note(s) _____
SEC. LICONSUR
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

Donley David Donley

Gruentew [Signature]

Finkelstein [Signature]

Boyer Mark Boyer

SIGNING:
 (Check approx. column)

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

David Donley
 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Requiring certain persons
to obtain malpractice insurance
 Sponsor: House Labor & Commerce Comm.
 Requestor: House Labor & Commerce Comm.

Agency Affected: Commerce & Economic Dev.
 BRU: Insurance, Occ. Licensino
 Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.

Prepared by: Linda Wild, Special Assistant Phone: 465-2500
 Division: Commissioner's Office Date: 1/29/90

Approved by Commissioner: Larry Mercurieff Date: 1/29/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX 7, JUNEAU 99811

(907) 465-3892



November 23, 1989

MEMORANDUM

To: Members, House Labor and Commerce Committee

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

Re: HB 334 - Required liability insurance

HB 334 requires any person licensed under AS 08.02 (Occupational Licensing) to obtain and carry malpractice insurance in an amount not less than \$100,000:

1. When judgment has been entered against the person for civil damages and the civil damages resulted from an act or omission arising out of the person's occupation or profession.
2. Until the judgment is satisfied or the parties to the judgment have entered into a settlement agreement.
3. Unless the person is no longer employed in the occupation or profession that resulted in an award of civil damages, or is employed in an unrelated occupation.

HB 334 serves as an incentive for prompt payment of judgments and for entering into settlement agreements. The measure should also serve to better protect the public by requiring insurance of those professionals who have failed to demonstrate financial responsibility for damages they have caused.

dd/gbi89
b/hb334

HB 334

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 334 (L&C)
Work Order 6-1317E, by Ford, Dated 2/6/90

The proposed CS for HB 334 requires all licensed occupations and professions in the state to obtain malpractice insurance when they have an outstanding judgement in order to continue practicing in their licensed occupation/profession. Major provisions in the CS include requirements that:

- * malpractice insurance is maintained until the outstanding judgement has been paid.
- * licensee provides copy of judgment and proof that it has been paid or that required insurance has been obtained within 10 days after the judgment is entered. Failure to comply with this provision results in one year suspension of license.
- * Division of occupational licensing work with Division of risk management to establish minimum malpractice insurance requirements for each regulated occupation or profession. Occupational licensing must notify licensees of the requirements under this act.
- * The court that enters a judgment must forward a copy of the judgment to the division of occupational licensing.
- * The provisions do not apply to a person who is required to have insurance or to provide a bond as a condition of licensing or to a person who is no longer employed in the occupation/profession that resulted in the award of civil damages or to a regulated occupation/profession that is unrelated to the occupation/profession that resulted in the award of civil damages.

dd/gbs90
h/hh334-1

6-1317E ✓
Ford
2/6/90

Original sponsor(s): Labor & Commerce Committee

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 334 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to malpractice insurance for certain
7 persons who are in a regulated occupation or profes-
8 sion."

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

10 * Section 1. AS 08.02 is amended by adding a new section to read:

11 Sec. 08.02.030. MALPRACTICE INSURANCE REQUIRED. (a) A person
12 in an occupation or profession regulated under this title shall obtain
13 malpractice insurance from an insurer authorized to do business in
14 this state if judgment has been entered against the person for civil
15 damages and the civil damages resulted from an act or omission arising
16 out of the person's occupation or profession. Malpractice insurance
17 required under this section must provide coverage for negligent acts
18 or omissions arising out of the occupation or profession of the
19 insured, and must be maintained in effect until the judgment is
20 satisfied or the parties to the judgment have entered into a settle-
21 ment agreement.

22 (b) A person who is required to obtain malpractice insurance
23 under this section shall provide a copy of the judgment and proof of
24 the required insurance, or a copy of the satisfaction or settlement of
25 the judgment, to the division of occupational licensing within 10 days
26 after judgment is entered. The license of a person who fails to
27 comply with this section shall be suspended for a period of one year.

28 (c) The division of occupational licensing shall

29 (1) in coordination with the division of risk management,

1 adopt regulations that establish minimum malpractice insurance re-
2 quirements for each regulated occupation or profession;

3 (2) upon issuance or renewal of a license, notify each
4 person in an occupation or profession regulated under this title of
5 the requirements of this section.

6 (d) A court that enters a judgment for civil damages resulting
7 from an act or omission arising out of the liable person's occupation
8 or profession occupation or profession, shall, if that person's occu-
9 pation or profession is regulated under this title, forward a copy of
10 the judgment to the division of occupation licensing.

11 (e) This section does not apply to a person who is required to
12 have insurance or to provide a bond as a condition of licensing, or to
13 a person who is no longer employed in the occupation or profession
14 that resulted in an award of civil damages, or to an occupation or
15 profession regulated under this title that is unrelated to the occupa-
16 tion or profession that resulted in an award of civil damages.

17 (f) In this section, "malpractice insurance" has the meaning
18 given in AS 21.12.070(a)(10).
19
20
21
22
23
24
25
26
27
28
29