20.02A PAST MEDICAL EXPENSES

The (first, second, etc.) item of economic loss claimed by the plaintiff is the reasonable expense of necessary medical care from (insert date of the accident) to (insert date of trial)]. [In fixing this amount, "medical care" includes: (insert any claimed services or items which the Court determines are "medical care", such as nursing care, drugs, etc.).]

# Use Note

Use this instruction with Instruction 20.01A or 20.01B for past medical expenses.

If only past medical expenses are claimed, this instruction must be used. If only future medical expenses are claimed, Instruction 20.02B must be used. If both past and future medical expenses are claimed, both this instruction and Instruction 20.02B must be used.

The last bracketed sentence allows the trial judge to specify what is included in medical care where doing so will assist the jury.

# Comment

The Alaska Supreme Court has approved damage awards for past and future medical expenses in numerous cases, including Saslow v. Rexford, 395 P.2d 36, 42 (Alaska 1964) (past medical expenses); City of Fairbanks v. Nesbett, 432 P.2d 607, 615 (Alaska 1967) (see p. 615 n.18 for trial court’s instructions on past and future medical expenses); Chugach Electric Association v. Lewis, 453 P.2d 345, 350 (Alaska 1969) (future medical expenses); Fruit v. Schreiner, 502 P.2d 133, 145 (Alaska 1972) (past and future medical expenses); Aydlett v. Haynes, 511 P.2d 1311, 1314-15 (Alaska 1973) (past and future medical expenses); Grasle Electric Company v. Clark, 525 P.2d 1081, 1082 (Alaska 1974) (past medical expenses); Irving v. Bullock, 549 P.2d 1184, 1187 (Alaska 1976 (past medical expenses); American National Watermattress Corp. v. Manville, 642 P.2d 1330, 1341 (Alaska 1982) (past and future medical expenses); and Alaska Village, Inc. v. Smalley, 720 P.2d 945, 950 (Alaska 1986) (past medical expenses).

In the award of damages for medical expenses, the Alaska courts usually have referred to “costs” or “expenses,” Saslow, 395 P.2d at 42; Nesbett, 432 P.2d at 615 n. 18; Schreiner, 502 P.2d at 145. The Alaska Supreme Court has held that the proper measure is the reasonable value of medical services even in cases where medical expenses are actually paid by a collateral source. See Aydltett, 511 P.2d at 1313-15.

Generally, a parent has the primary right of action for past medical expenses incurred on behalf of an unemancipated minor. However, a parent may waive the right to recover by failing to object in the event the injured child sues for those expenses, or by testifying on the child’s behalf when the child is suing for those expenses. Smalley, 720 P.2d at 950.

AS 09.17.040(a) dictates that the verdicts in personal injury cases shall be itemized between past and future economic and non-economic losses. Medical expenses constitute an economic loss.