8.01 HEALTH CARE PROVIDER MALPRACTICE - PLAINTIFF’S CLAIMS

The plaintiff claims that [he] [she] was harmed because of the negligence of the defendant and wants payment from the defendant for this harm. Specifically, plaintiff claims the defendant was negligent in performing the professional health care services of a [insert defendant’s profession] [because ] [in one or more of the following ways:

1.

2.

. . . .].

The defendant denies [this] [these] claim[s].

For the plaintiff to recover, the plaintiff has the burden of proving that it is more likely true than not true that:

(1) the defendant was negligent [in one or more of these ways];

(2) the negligence was a legal cause of the plaintiff’s harm; and

(3) the plaintiff was actually harmed.

I will define negligence and legal cause for you in a moment.

# **Use Note**

This instruction should be used instead of Instruction 3.01 in cases involving claims of negligence in the performance of professional health care services.

Where there is more than one theory of negligence, care should be taken to differentiate the theories so that the jury realizes that separate duties are owed and that each duty must be considered separately. See the Introductory Use Note for discussion of the order in which the following series of instructions normally should be given.

## Comment

Where the plaintiff asserts more than one theory of liability, the individual theories should be separately stated to avoid confusion between multiple theories of negligence that might arise in the minds of the jury. See Poulin v. Zartman, 542 P.2d 251, 271 (Alaska 1975).