

LEGAL SERVICES

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MEMORANDUM

February 13, 2014

SUBJECT: Immunity for dentists issued temporary licenses
(CSHB 269()); Work Order No. 28-LS1251(U)

TO: Representative Steve Thompson
Attn: Jane Pierson

FROM: Megan A. Wallace 
Legislative Counsel

You have asked for an opinion as to whether a dentist issued a temporary license would have immunity under AS 09.65.300(a) under the current draft legislation.

CSHB 269() explicitly extends the immunity granted in AS 09.65.300(a) to "a health care provider who holds a temporary license . . . under AS 08.01.062." Further, CSHB 269() includes "dentist" in the definition of "health care provider," without regard to whether the dentist is licensed in-state, out-of-state, or under a temporary license.

In its current form, AS 09.65.300(a) reads:

(a) Except as otherwise provided in this section, a health care provider who provides health care services to another person is not liable for civil damages resulting from an act or omission in providing the health care services if the health care

(1) provider is licensed in this state to provide health care services;

(2) services provided were within the scope of the health care provider's license;

(3) services were provided at a medical clinic, medical facility, nonprofit facility, temporary emergency site, or other facility owned or operated by a governmental entity or nonprofit organization and the health care provider was acting within the scope of the provider's responsibilities in the medical clinic, governmental entity, or nonprofit organization;

(4) services were provided voluntarily and without pay to the health care provider for the services, except as provided in (b)(2) and (3) of this section; and

(5) provider

(A) obtains informed consent from the person receiving the health care services as described under AS 09.55.556, except in the case of an emergency; and

(B) provides the person receiving the health care services advance written notice of the immunity provided under this section to a health care provider when providing voluntary health care services as described under this section.

In my opinion, a dentist issued a temporary license would clearly meet the criteria of (a)(1) under CSHB 269(). Therefore, so long as the dentist met the criteria articulated in (a)(2) - (5), the dentist would qualify for immunity under AS 09.65.300(a).¹

Please let me know if you have any other questions.

MAW:lnd

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¹ Please also see our memorandum on this issue dated January 13, 2014 from Hilary Martin that reaches a similar conclusion.