

HOUSE CS FOR CS FOR SENATE BILL NO. 65(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 5/5/21

Referred: jud1

Sponsor(s): SENATORS KIEHL, Begich

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to immunity for consulting physicians, podiatrists, osteopaths,**
2 **advanced practice registered nurses, physician assistants, chiropractors, dentists,**
3 **optometrists, pharmacists, physical therapists, and occupational therapists."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.55 is amended by adding a new section to read:

6 **Sec. 09.55.552. Consulting health care provider immunity; uncompensated**

7 **consultation.** (a) A consulting health care provider is immune from civil liability for
8 claims arising from professional services provided to a patient if

9 (1) the patient is not a current or former patient of the consulting health
10 care provider or of the consulting health care provider's practice;

11 (2) the consulting health care provider does not examine or treat the
12 patient;

13 (3) the consulting health care provider or the consulting health care
14 provider's practice is not compensated for the consultation;

1 (4) the consulting health care provider is not a subordinate or
2 supervisor of the health care provider who requested the consultation;

3 (5) the consulting health care provider is not serving as a locum tenens
4 or otherwise temporarily managing the practice of the health care provider who
5 requested the consultation;

6 (6) the consulting health care provider is not on call at the health care
7 facility in which the patient is being treated at the time of the consultation;

8 (7) the consulting health care provider did not accept responsibility to
9 be on call for the patient about whom the consultation is requested before the
10 consultation;

11 (8) the consulting health care provider is not required to provide
12 medical services to the patient under 42 U.S.C. 1395dd (Emergency Medical
13 Treatment and Active Labor Act) at the time of the consultation; and

14 (9) a written report is not prepared by the consulting health care
15 provider as a result of the consultation.

16 (b) Notwithstanding AS 09.17.080, a court may not reduce the civil liability
17 of, or damages awarded against, a health care provider who requests a consultation on
18 grounds that a consulting health care provider under (a) of this section should be held
19 liable.

20 (c) In this section,

21 (1) "consulting health care provider" means a health care provider who
22 provides advice to another health care provider;

23 (2) "health care facility" means a private, municipal, state, or federal
24 hospital, psychiatric hospital, emergency department, independent diagnostic testing
25 facility, residential psychiatric treatment center as defined in AS 47.32.900, kidney
26 disease treatment center (including freestanding hemodialysis units), office of a
27 private physician, chiropractor, or dentist whether in individual or group practice,
28 ambulatory surgical center as defined in AS 47.32.900, free-standing birth center as
29 defined in AS 47.32.900, and rural health clinic as defined in AS 47.32.900;

30 (3) "health care provider" means a physician, podiatrist, or osteopath
31 licensed under AS 08.64.170 - 08.64.250, an advanced practice registered nurse

1 licensed under AS 08.68, a physician assistant licensed under AS 08.64.107, a
2 chiropractor licensed under AS 08.20, a dentist licensed under AS 08.36, an
3 optometrist licensed under AS 08.72, a pharmacist licensed under AS 08.80, or a
4 physical therapist or occupational therapist licensed under AS 08.84.