

**CS FOR HOUSE BILL NO. 260(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/30/03

Referred: Judiciary

Sponsor(s): REPRESENTATIVES SEATON, Wilson, Gara, Anderson, McGuire, Holm

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to immunity for free health care services provided by certain health**  
2 **care providers; and providing for an effective date."**

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

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 SHORT TITLE. This Act may be known as the Volunteer Health Care Provider  
7 Immunity Act of 2003.

8 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 FINDINGS. The legislature finds that

11 (1) many of the state's most senior and experienced physicians will be retiring  
12 in the next five to 10 years; retiring physicians deciding to reside in Alaska could continue to  
13 benefit our local communities by volunteering their medical services;

14 (2) historically, Alaska has had difficulty in attracting and maintaining

1 adequate numbers of qualified physicians; currently, Alaska ranks 49th in the number of  
 2 physicians per capita, while Alaska's physicians continue to grow older, reaching an average  
 3 age of 51 years;

4 (3) without civil liability protection, retired physicians would be unwilling to  
 5 provide free services to the indigent and elderly;

6 (4) 43 states have enacted legislation limiting liability for retired physicians,  
 7 thus encouraging retired physicians to continue in providing voluntary medical services; and

8 (5) removing liability requirements for retired physicians would be in the best  
 9 interests of the state; retired physicians unhindered by expensive malpractice insurance would  
 10 be more inclined to volunteer necessary and important medical services to all Alaskans.

11 \* **Sec. 3.** AS 09.65 is amended by adding a new section to read:

12 **Sec. 09.65.290. Immunity for providing free health care services.** (a)

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

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

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

19 (3) services were provided at a medical clinic, medical facility,  
 20 nonprofit facility, or facility owned by a municipality, the state, or the United States  
 21 government;

22 (4) services were provided without charge for the services; and

23 (5) provider

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

27 (B) provides the person receiving the health care services  
 28 written notice of the immunity provided under this section.

29 (b) This section does not

30 (1) preclude liability for civil damages that are the result of gross  
 31 negligence or reckless or intentional misconduct; or

1                   (2) apply to civil damages resulting from an elective abortion.

2                   (c) In this section,

3                   (1) "health care provider" means a state licensed physician, physician  
4                   assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor, registered  
5                   nurse, practical nurse, nurse midwife, advanced nurse practitioner, naturopath,  
6                   physical therapist, occupational therapist, marital and family therapist, psychologist,  
7                   psychological associate, licensed clinical social worker, or certified direct-entry  
8                   midwife;

9                   (2) "health care services" means services received by an individual in  
10                  order to treat or to prevent illness or injury.

11        \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
12        read:

13                  **APPLICABILITY.** This Act applies to a cause of action that accrues on or after the  
14        effective date of this Act.

15        \* **Sec. 5.** This Act takes effect July 1, 2003.