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SENATE CS FOR CS FOR HOUSE BILL NO. 260(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/4/04

Referred: Rules

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

SENATORS Bunde, Gary Stevens, Dyson

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 2004.

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. 09.65.300. 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, temporary emergency site, or other facility owned or operated by a
 21 governmental entity or nonprofit organization and the health care provider was acting
 22 within the scope of the provider's responsibilities in the medical clinic, governmental
 23 entity, or nonprofit organization;

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

26 (5) provider

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

30 (B) provides the person receiving the health care services
 31 advance written notice of the immunity provided under this section to a health

1 care provider when providing voluntary health care services as described under
2 this section.

3 (b) This section does not preclude

4 (1) liability for civil damages that are the result of gross negligence or
5 reckless or intentional misconduct;

6 (2) a health care provider from receiving payment or being reimbursed
7 for expenses, including travel and room and board while providing voluntary services;

8 (3) a medical clinic or facility from charging for its services.

9 (c) In this section,

10 (1) "health care provider" means a state licensed physician, physician
11 assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor, registered
12 nurse, practical nurse, nurse midwife, advanced nurse practitioner, naturopath,
13 physical therapist, occupational therapist, marital and family therapist, psychologist,
14 psychological associate, licensed clinical social worker, or certified direct-entry
15 midwife;

16 (2) "health care services" means services received by an individual in
17 order to treat or to prevent illness or injury;

18 (3) "nonprofit organization" means an organization that qualifies for
19 exemption from taxation under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code).

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

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

24 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).