

HOUSE BILL NO. 288

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JOSEPHSON, Kopp

Introduced: 2/24/20

Referred: Health & Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to immunity for consulting physicians."**

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

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

4 **Sec. 09.55.552. Physician immunity; uncompensated consultation.** (a) A
5 consulting physician is immune from civil liability for claims arising from
6 professional services provided to a patient if

7 (1) the patient is not a current or former patient of the consulting
8 physician or the consulting physician's practice;

9 (2) the consulting physician does not examine or treat the patient;

10 (3) the consulting physician or the consulting physician's practice is
11 not compensated for the consultation;

12 (4) the consulting physician is not a subordinate or supervisor of the
13 physician who requested the consultation;

14 (5) the consulting physician is not serving as a locum tenens or
15 otherwise temporarily managing the practice of the physician who requested the

1 consultation;

2 (6) the consulting physician is not on call at the time of the
3 consultation;

4 (7) the consulting physician is not required to provide medical services
5 to the patient under 42 U.S.C. 1395dd (Emergency Medical Treatment and Active
6 Labor Act) at the time of the consultation; and

7 (8) a written report prepared by the consulting physician is not
8 included in the patient's file.

9 (b) Notwithstanding AS 09.17.080, a court may not reduce the civil liability
10 of, or damages awarded against, a physician who requested consultation on grounds
11 that a consulting physician under (a) of this section should be held liable.

12 (c) In this section,

13 (1) "consulting physician" means a physician licensed under AS 08.64
14 who provides advice to a physician who requested consultation about a patient;

15 (2) "health care facility" means a private, municipal, or state hospital,
16 psychiatric hospital, emergency department, independent diagnostic testing facility,
17 residential psychiatric treatment center as defined in AS 47.32.900, kidney disease
18 treatment center (including freestanding hemodialysis units), office of a private
19 physician or dentist whether in individual or group practice, ambulatory surgical
20 center as defined in AS 47.32.900, free-standing birth center as defined in
21 AS 47.32.900, and rural health clinic as defined in AS 47.32.900.