

By: Moody

To: Public Health and
Welfare; Judiciary A

HOUSE BILL NO. 1285

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE IMMUNITY FROM LIABILITY FOR RETIRED PHYSICIANS SERVING
3 THE MISSISSIPPI LEGISLATURE AS "DOCTOR OF THE DAY"; AND FOR
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 73-25-38, Mississippi Code of 1972, is
7 amended as follows:

8 73-25-38. (1) Any licensed physician or certified nurse
9 practitioner who voluntarily provides needed medical or health
10 services to any person without the expectation of payment due to
11 the inability of such person to pay for said services shall be
12 immune from liability for any civil action arising out of the
13 provision of such medical or health services provided in good
14 faith on a charitable basis. This section shall not extend
15 immunity to acts of willful or gross negligence. Except in cases
16 of rendering emergency care wherein the provisions of Section
17 73-25-37, Mississippi Code of 1972, apply, immunity under this
18 section shall be extended only if the physician or certified nurse
19 practitioner and patient execute a written waiver in advance of
20 the rendering of such medical services specifying that such
21 services are provided without the expectation of payment and that
22 the licensed physician or certified nurse practitioner shall be
23 immune as provided herein.

24 (2) Any physician who voluntarily renders any medical
25 service under a special volunteer medical license authorized under
26 Section 1 of this act without any payment or compensation or the
27 expectation or promise of any payment or compensation shall be

28 immune from liability for any civil action arising out of any act
29 or omission resulting from the rendering of the medical service
30 unless the act or omission was the result of the physician's gross
31 negligence or wilful misconduct. In order for the immunity under
32 this subsection to apply, there must be a written or oral
33 agreement for the physician to provide a voluntary noncompensated
34 medical service before the rendering of the service by the
35 physician.

36 (3) Any physician who is retired from active practice, and
37 who has been previously issued an unrestricted license to practice
38 medicine in any state of the United States or who has been issued
39 a special volunteer medical license under Section 73-25-18, shall
40 be immune from liability for any civil action arising out of any
41 medical care or treatment provided while voluntarily serving as
42 "doctor of the day" for members of the Mississippi State
43 Legislature, legislative or other state employees, or any visitors
44 to the State Capitol on the date of such service. This subsection
45 shall not extend immunity to acts of willful or gross negligence
46 or misconduct.

47 SECTION 2. This act shall take effect and be in force from
48 and after its passage.