

By: Senator(s) Chaney, Kirby, Burton,
Michel, Nunnelee, King

To: Public Health and
Welfare; Judiciary

SENATE BILL NO. 2392
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE IMMUNITY FROM LIABILITY FOR ANY CHURCH OPERATING A
3 MEDICAL CLINIC FOR CHARITABLE PURPOSES AND TO PROVIDE IMMUNITY FOR
4 THE LEGISLATURE'S DOCTOR OF THE DAY; AND FOR 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. The immunity from liability granted by
24 this section shall also extend to actions arising from a church
25 operated outpatient medical clinic that exists solely for the
26 purpose of providing charitable medical services to persons who
27 are unable to pay for such services, provided that the outpatient

28 clinic receives less than Forty Thousand Dollars (\$40,000.00)
29 annually in patient payments.

30 (2) Any physician who voluntarily renders any medical
31 service under a special volunteer medical license authorized under
32 Section 1 of this act without any payment or compensation or the
33 expectation or promise of any payment or compensation shall be
34 immune from liability for any civil action arising out of any act
35 or omission resulting from the rendering of the medical service
36 unless the act or omission was the result of the physician's gross
37 negligence or willful misconduct. In order for the immunity under
38 this subsection to apply, there must be a written or oral
39 agreement for the physician to provide a voluntary noncompensated
40 medical service before the rendering of the service by the
41 physician.

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

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