

By: Representatives Zuber, Whittington

To: Public Health and Welfare; Judiciary A

HOUSE BILL NO. 63

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE IMMUNITY FROM LIABILITY PROVIDED TO CHURCH OPERATED  
3 OUTPATIENT MEDICAL CLINICS OPERATED FOR CHARITABLE PURPOSES TO  
4 INCLUDE CHURCH OPERATED PHARMACIES; 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 the person to pay for those services shall be  
12 immune from liability for any civil action arising out of the  
13 provision of those 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 in which the provisions of Section  
17 73-25-37 apply, immunity under this section shall be extended only  
18 if the physician or certified nurse practitioner and patient  
19 execute a written waiver in advance of the rendering of the  
20 medical or health services specifying that the services are  
21 provided without the expectation of payment and that the licensed  
22 physician or certified nurse practitioner shall be immune as  
23 provided in this subsection. The immunity from liability granted  
24 by this subsection also shall extend to actions arising from a  
25 church operated outpatient medical clinic or pharmacy that exists  
26 solely for the purpose of providing charitable medical services to  
27 persons who are unable to pay for those services, provided that



28 the outpatient clinic or pharmacy receives less than Forty  
29 Thousand Dollars (\$40,000.00) 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 73-25-18 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 the 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 July 1, 2002.

