

By: Representative Bondurant

To: Medicaid; Judiciary A

HOUSE BILL NO. 894

1 AN ACT TO PROVIDE ACCESS TO HEALTH CARE FOR INDIGENT PATIENTS
2 IN MISSISSIPPI; TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF
3 1972, TO INCLUDE PHYSICIANS UNDER CONTRACT WITH THE DIVISION OF
4 MEDICAID IN THE DEFINITION OF EMPLOYEE IN THE TORT CLAIMS ACT; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** The Legislature finds that a significant portion
8 of the residents of this state who are Medicaid recipients are
9 unable to access needed health care because health care providers
10 fear the increased risk of medical negligence liability. The
11 Legislature recognizes the importance of assuring adequate health
12 care services for all Mississippians, and it acknowledges that
13 physicians are a vital component of providing such services. The
14 Legislature finds that physicians who provide health care services
15 to citizens who are Medicaid recipients are providing an essential
16 public service and that it is in their interest to provide certain
17 immunities of the state and its political subdivisions liability
18 protections for these services.

19 **SECTION 2.** Section 11-46-1, Mississippi Code of 1972, is
20 amended as follows:

21 11-46-1. As used in this chapter, the following terms shall
22 have the meanings herein ascribed unless the context otherwise
23 requires:

24 (a) "Claim" means any demand to recover damages from a
25 governmental entity as compensation for injuries.

26 (b) "Claimant" means any person seeking compensation
27 under the provisions of this chapter, whether by administrative
28 remedy or through the courts.

29 (c) "Board" means the Mississippi Tort Claims Board.

30 (d) "Department" means the Department of Finance and
31 Administration.

32 (e) "Director" means the executive director of the
33 department who is also the executive director of the board.

34 (f) "Employee" means any officer, employee or servant
35 of the State of Mississippi or a political subdivision of the
36 state, including elected or appointed officials and persons acting
37 on behalf of the state or a political subdivision in any official
38 capacity, temporarily or permanently, in the service of the state
39 or a political subdivision whether with or without compensation.
40 The term "employee" shall not mean a person or other legal entity
41 while acting in the capacity of an independent contractor under
42 contract to the state or a political subdivision; provided,
43 however, that for purposes of the limits of liability provided for
44 in Section 11-46-15, the term "employee" shall include physicians
45 under contract to provide health services with the Division of
46 Medicaid, the State Board of Health, the State Board of Mental
47 Health or any county or municipal jail facility while rendering
48 services under such contract. The term "employee" shall also
49 include any physician, dentist or other health care practitioner
50 employed by the University of Mississippi Medical Center (UMMC)
51 and its departmental practice plans who is a faculty member and
52 provides health care services only for patients at UMMC or its
53 affiliated practice sites. The term "employee" shall also include
54 any physician, dentist or other health care practitioner employed
55 by any university under the control of the Board of Trustees of
56 State Institutions of Higher Learning who practices only on the
57 campus of any university under the control of the Board of
58 Trustees of State Institutions of Higher Learning. The term
59 "employee" shall also include any physician, dentist or other
60 health care practitioner employed by the State Veterans Affairs
61 Board and who provides health care services for patients for the

62 State Veterans Affairs Board. The term "employee" shall also
63 include Mississippi Department of Human Services licensed foster
64 parents for the limited purposes of coverage under the Tort Claims
65 Act as provided in Section 11-46-8.

66 (g) "Governmental entity" means and includes the state
67 and political subdivisions as herein defined.

68 (h) "Injury" means death, injury to a person, damage to
69 or loss of property or any other injury that a person may suffer
70 that is actionable at law or in equity.

71 (i) "Political subdivision" means any body politic or
72 body corporate other than the state responsible for governmental
73 activities only in geographic areas smaller than that of the
74 state, including, but not limited to, any county, municipality,
75 school district, community hospital as defined in Section
76 41-13-10, Mississippi Code of 1972, airport authority or other
77 instrumentality thereof, whether or not such body or
78 instrumentality thereof has the authority to levy taxes or to sue
79 or be sued in its own name.

80 (j) "State" means the State of Mississippi and any
81 office, department, agency, division, bureau, commission, board,
82 institution, hospital, college, university, airport authority or
83 other instrumentality thereof, whether or not such body or
84 instrumentality thereof has the authority to levy taxes or to sue
85 or be sued in its own name.

86 (k) "Law" means all species of law, including, but not
87 limited to, any and all constitutions, statutes, case law, common
88 law, customary law, court order, court rule, court decision, court
89 opinion, court judgment or mandate, administrative rule or
90 regulation, executive order, or principle or rule of equity.

91 **SECTION 3.** This act shall take effect and be in force from
92 and after July 1, 2007.