

By: Representative Flagg

To: Public Health and Human  
Services; Judiciary A

## HOUSE BILL NO. 1350

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE IMMUNITY FOR DENTISTS PROVIDING CHARITABLE MEDICAL  
3 CARE; AND FOR RELATED PURPOSES.

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

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

7 73-25-38. (1) Any licensed physician, dentist or certified  
8 nurse practitioner who voluntarily provides needed medical, dental  
9 or health services to any person without the expectation of  
10 payment due to the inability of such person to pay for said  
11 services shall be immune from liability for any civil action  
12 arising out of the provision of such medical, dental or health  
13 services provided in good faith on a charitable basis. This  
14 section shall not extend immunity to acts of willful or gross  
15 negligence. Except in cases of rendering emergency care wherein  
16 the provisions of Section 73-25-37 apply, immunity under this  
17 section shall be extended only if the physician, dentist or  
18 certified nurse practitioner and patient execute a written waiver  
19 in advance of the rendering of such medical services specifying  
20 that such services are provided without the expectation of payment  
21 and that the licensed physician, dentist or certified nurse  
22 practitioner shall be immune as provided in this subsection. The  
23 immunity from liability granted by this subsection also shall  
24 extend to actions arising from a church-operated outpatient  
25 medical clinic that exists solely for the purpose of providing  
26 charitable medical or dental services to persons who are unable to  
27 pay for such services, provided that the outpatient clinic

28 receives less than Forty Thousand Dollars (\$40,000.00) annually in  
29 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 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 July 1, 2007.