

By: Representative Smith

To: Judiciary A

HOUSE BILL NO. 1418

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY LICENSED PHYSICIAN, NOT JUST A RETIRED
3 PHYSICIAN, WHO VOLUNTARILY SERVES AS "DOCTOR OF THE DAY" FOR THE
4 MISSISSIPPI LEGISLATURE SHALL BE IMMUNE FROM LIABILITY FOR ANY
5 CIVIL ACTION ARISING OUT OF ANY MEDICAL CARE OR TREATMENT PROVIDED
6 WHILE RENDERING THAT SERVICE; AND FOR RELATED PURPOSES.

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

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

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



21 nurse practitioner and patient execute a written waiver in advance
22 of the rendering of such medical services specifying that such
23 services are provided without the expectation of payment and that
24 the licensed physician or certified nurse practitioner shall be
25 immune as provided in this subsection. The immunity from
26 liability granted by this subsection also shall extend to actions
27 arising from a church-operated outpatient medical clinic that
28 exists solely for the purpose of providing charitable medical
29 services to persons who are unable to pay for such services,
30 provided that the outpatient clinic receives less than Forty
31 Thousand Dollars (\$40,000.00) annually in patient payments.

32 (2) Any licensed physician, physician assistant or certified
33 nurse practitioner assisting with emergency management, emergency
34 operations or hazard mitigation in response to any emergency,
35 man-made or natural disaster, who voluntarily provides needed
36 medical or health services to any person without fee or other
37 compensation, shall not be liable for civil damages on the basis
38 of any act or omission if the physician, physician assistant or
39 nurse practitioner was acting in good faith and within the scope
40 of their license, education and training and the acts or omissions
41 were not caused from gross, willful or wanton acts of negligence.

42 (3) Any physician who voluntarily renders any medical
43 service under a special volunteer medical license authorized under
44 Section 73-25-18 without any payment or compensation or the
45 expectation or promise of any payment or compensation shall be



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

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

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

