

By: Senator(s) Hill

To: Public Health and
Welfare

SENATE BILL NO. 2902

1 AN ACT TO AMEND SECTIONS 73-25-38 AND 73-25-19, MISSISSIPPI
2 CODE OF 1972, TO INCLUDE CERTAIN ADDITIONAL LICENSED HEALTH CARE
3 PROFESSIONALS TO THE STATUTORY IMMUNITY FOR PROVIDING CHARITABLE
4 MEDICAL CARE OR VOLUNTARY HEALTH CARE SERVICES WITHOUT A FEE, TO
5 PROVIDE FOR CONTINUING EDUCATION CREDIT FOR HEALTH CARE
6 PROFESSIONALS PROVIDING SUCH VOLUNTARY CARE, AND TO CLARIFY THE
7 STATUS OF NONRESIDENT HEALTH CARE PROFESSIONALS PROVIDING SUCH
8 VOLUNTARY CARE; AND FOR RELATED PURPOSES.

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

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

12 73-25-38. (1) Any licensed physician, physician assistant,
13 dentist, dental hygienist, optometrist or * * * nurse * * * who
14 voluntarily provides needed medical or health services to any
15 person without the expectation of payment due to the inability
16 of * * * the person to pay for * * * those services shall be
17 immune from liability for any civil action arising out of the
18 provision of * * * those medical or health services provided in
19 good faith on a charitable basis. This section shall not extend
20 immunity to acts of willful or gross negligence. Except in cases
21 of rendering emergency care * * * in which the provisions of



22 Section 73-25-37 apply, immunity under this section shall be
23 extended only if the physician, physician assistant, dentist,
24 dental hygienist, optometrist or * * * nurse * * * and patient
25 execute a written waiver in advance of the rendering of * * *
26 those medical services specifying that * * * those services are
27 provided without the expectation of payment and that the licensed
28 physician, physician assistant, dentist, dental hygienist,
29 optometrist or * * * nurse * * * shall be immune as provided in
30 this subsection. The immunity from liability granted by this
31 subsection also shall extend to actions arising from a
32 church-operated or charitable nonprofit outpatient medical clinic
33 that exists solely for the purpose of providing charitable medical
34 services to persons who are unable to pay for * * * those
35 services, provided that the outpatient clinic receives less than
36 Forty Thousand Dollars (\$40,000.00) annually in patient payments.

37 (2) Any licensed physician, physician assistant, dentist,
38 dental hygienist, optometrist or * * * nurse * * * assisting with
39 emergency management, emergency operations or hazard mitigation in
40 response to any emergency, man-made or natural disaster, who
41 voluntarily provides needed medical or health services to any
42 person without fee or other compensation, shall not be liable for
43 civil damages on the basis of any act or omission if the
44 physician, physician assistant, dentist, dental hygienist,
45 optometrist or nurse * * * was acting in good faith and within the
46 scope of their license, education and training and the acts or



omissions were not caused from gross, willful or wanton acts of negligence.

(3) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 73-25-18 without any payment or compensation or the 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) (a) Any licensed physician, physician assistant, dentist, dental hygienist, optometrist or nurse (hereinafter "medical professional") who voluntarily provides medical care and treatment to any person without expectation of payment as authorized in this section may fulfill one (1) credit hour of continuing education for each sixty (60) minutes of providing voluntary health services. The licensing body that issues licenses to the medical professional shall permit the medical professional to satisfy up to one-third (1/3) of the medical professional's continuing education requirement by providing



71 services to persons without expectation of payment as authorized
72 by this section.

73 (b) For purposes of claiming a continuing education
74 credit, the medical professional, or cooperating free clinic or
75 charitable clinic, shall keep records indicating the following:

76 (i) The number of hours of donated care;

77 (ii) The number of qualified indigent or needy
78 patients served; and

79 (iii) The estimated value of care donated under
80 this section.

81 (c) The applicable licensing body shall have the right
82 to verify the number of hours of donated care by the medical
83 professional by reviewing patient schedules and tracked hours.

84 (d) Any adverse incidents and information regarding
85 treatment outcomes for care donated under this section must be
86 reported by the medical professional to the appropriate licensing
87 body, which shall review the incident to determine whether it
88 involves conduct by the medical professional that is subject to
89 disciplinary action. All patient medical records and identifying
90 information contained in adverse incident reports and treatment
91 outcomes are confidential.

92 (* * *5) Any licensed physician, or any physician who is
93 retired from active practice and who has been previously issued an
94 unrestricted license to practice medicine in any state of the
95 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. Section 73-25-19, Mississippi Code of 1972, is amended as follows:

73-25-19. (1) A nonresident * * * licensed physician, physician assistant, dentist, dental hygienist, optometrist or nurse (hereinafter "medical professional") not holding a license from * * * this state shall not be permitted to practice * * *, unless he or she:

(a) Practices in the state for * * * less than fifteen (15) days * * * per calendar year;

(b) Is called in consultation by a licensed medical professional residing in this state;

(c) Practices in an area that is under a state or federal declaration of emergency; or

(d) Is providing medical care and treatment to persons on a charitable basis without expectation of payment in coordination with:



119 (i) A free clinic organized and operating under
120 the laws of the State of Mississippi; and is volunteering no more
121 than sixteen (16) hours a week at the clinic;

122 (ii) A charitable clinic organized and operating
123 under the laws of the State of Mississippi; and is volunteering no
124 more than sixteen (16) hours a week at the clinic;

125 (iii) A nonprofit organization operating under the
126 laws of another state that is conducting a medical mission in
127 Mississippi that does not exceed five (5) consecutive days and is
128 for the purpose of providing medical care and treatment on a
129 charitable basis without expectation of payment.

130 This section shall not apply to any nonresident physician who
131 holds a temporary license to practice medicine at a youth camp
132 issued under the provisions of Section 75-74-8 and Section
133 73-25-17.

134 (2) This section shall not apply to:

135 (a) Any person whose license or certificate is
136 suspended or revoked under disciplinary proceedings in any
137 jurisdiction; or

138 (b) A licensed medical professional who renders
139 services outside the scope of practice authorized by the person's
140 licensure, certification, or exception to that licensure or
141 certification.

142 (3) Any nonresident medical professional providing temporary
143 volunteer health services in this state through a Mississippi free



clinic, Mississippi charitable clinic or medical mission operated
by a nonprofit organization operating under the laws of another
state shall be immune from liability for any civil action arising
out of any act or omission resulting from the provision of those
services unless the act or omission was the result of the
nonresident medical professional's gross negligence or willful
misconduct.

SECTION 3. This act shall take effect and be in force from
and after July 1, 2018.

