

By: Representatives Mims, Felsher, Haney,  
Eubanks

To: Public Health and Human  
Services; Judiciary A

HOUSE BILL NO. 72

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE DENTISTS IN THE STATUTE THAT PROVIDES IMMUNITY FROM  
3 LIABILITY FOR CERTAIN HEALTH CARE PROVIDERS WHO PROVIDE CHARITABLE  
4 HEALTH SERVICES OR PROVIDE HEALTH SERVICES WITHOUT CHARGE WHILE  
5 ASSISTING WITH EMERGENCY MANAGEMENT OR OPERATIONS IN AN EMERGENCY;  
6 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, dentist, physician  
11 assistant or certified nurse practitioner who voluntarily provides  
12 needed medical or health services to any person without the  
13 expectation of payment due to the inability of such person to pay  
14 for \* \* \* such services shall be immune from liability for any  
15 civil action arising out of the provision of such medical or  
16 health services provided in good faith on a charitable basis.  
17 This section shall not extend immunity to acts of willful or gross  
18 negligence. Except in cases of rendering emergency care \* \* \* in  
19 which the provisions of Section 73-25-37 apply, immunity under  
20 this section shall be extended only if the physician, dentist,



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

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



45           (3) Any physician who voluntarily renders any medical  
46 service under a special volunteer medical license authorized under  
47 Section 73-25-18 without any payment or compensation or the  
48 expectation or promise of any payment or compensation shall be  
49 immune from liability for any civil action arising out of any act  
50 or omission resulting from the rendering of the medical service  
51 unless the act or omission was the result of the physician's gross  
52 negligence or willful misconduct. In order for the immunity under  
53 this subsection to apply, there must be a written or oral  
54 agreement for the physician to provide a voluntary noncompensated  
55 medical service before the rendering of the service by the  
56 physician.

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

68           **SECTION 2.** This act shall take effect and be in force from  
69 and after July 1, 2021.

