

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.

