

By: Representative Flaggs

To: Public Health and
Welfare; Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 822

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE IMMUNITY FROM CIVIL LIABILITY THAT IS GRANTED
3 TO PHYSICIANS AND NURSE PRACTITIONERS WHO VOLUNTARILY PROVIDE
4 MEDICAL OR HEALTH SERVICES TO PERSONS UNABLE TO PAY FOR THOSE
5 SERVICES ALSO SHALL EXTEND TO ACTIONS ARISING FROM A
6 CHURCH-OPERATED OUTPATIENT MEDICAL CLINIC THAT EXISTS SOLELY FOR
7 THE PURPOSE OF PROVIDING CHARITABLE MEDICAL SERVICES TO PERSONS
8 WHO ARE UNABLE TO PAY FOR THOSE SERVICES; TO PROVIDE IMMUNITY FROM
9 LIABILITY FOR RETIRED PHYSICIANS SERVING THE MISSISSIPPI
10 LEGISLATURE AS "DOCTOR OF THE DAY"; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 73-25-38, Mississippi Code of 1972, is
13 amended as follows:

14 73-25-38. (1) Any licensed physician or certified nurse
15 practitioner who voluntarily provides needed medical or health
16 services to any person without the expectation of payment due to
17 the inability of the person to pay for those services shall be
18 immune from liability for any civil action arising out of the
19 provision of those medical or health services provided in good
20 faith on a charitable basis. This section shall not extend
21 immunity to acts of willful or gross negligence. Except in cases
22 of rendering emergency care in which the provisions of Section
23 73-25-37, apply, immunity under this section shall be extended
24 only if the physician or certified nurse practitioner and patient
25 execute a written waiver in advance of the rendering of those
26 medical services specifying that those services are provided
27 without the expectation of payment and that the licensed physician
28 or certified nurse practitioner shall be immune as provided in
29 this subsection. The immunity from liability granted by this
30 subsection also shall extend to actions arising from a

31 church-operated outpatient medical clinic that exists solely for
32 the purpose of providing charitable medical services to persons
33 who are unable to pay for those services, provided that the
34 outpatient clinic receives less than Forty Thousand Dollars
35 (\$40,000.00) annually in patient payments.

36 (2) Any physician who voluntarily renders any medical
37 service under a special volunteer medical license authorized under
38 Section 73-25-18 without any payment or compensation or the
39 expectation or promise of any payment or compensation shall be
40 immune from liability for any civil action arising out of any act
41 or omission resulting from the rendering of the medical service
42 unless the act or omission was the result of the physician's gross
43 negligence or wilful misconduct. In order for the immunity under
44 this subsection to apply, there must be a written or oral
45 agreement for the physician to provide a voluntary noncompensated
46 medical service before the rendering of the service by the
47 physician.

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

59 SECTION 2. This act shall take effect and be in force from
60 and after July 1, 2001.