

By: Representative Flaggs

To: Public Health and  
Welfare; Judiciary A

HOUSE BILL NO. 822  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE IMMUNITY FROM LIABILITY FOR ANY CHURCH OPERATING A  
3 MEDICAL CLINIC FOR CHARITABLE PURPOSES AND TO PROVIDE IMMUNITY FOR  
4 THE LEGISLATURE'S DOCTOR OF THE DAY; AND FOR RELATED PURPOSES.

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

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

8 73-25-38. (1) Any licensed physician or certified nurse  
9 practitioner who voluntarily provides needed medical or health  
10 services to any person without the expectation of payment due to  
11 the inability of such person to pay for said services shall be  
12 immune from liability for any civil action arising out of the  
13 provision of such medical or health services provided in good  
14 faith on a charitable basis. This section shall not extend  
15 immunity to acts of willful or gross negligence. Except in cases  
16 of rendering emergency care wherein the provisions of Section  
17 73-25-37 \* \* \* apply, immunity under this section shall be  
18 extended only if the physician or certified nurse practitioner and  
19 patient execute a written waiver in advance of the rendering of  
20 such medical services specifying that such services are provided  
21 without the expectation of payment and that the licensed physician  
22 or certified nurse practitioner shall be immune as provided in  
23 this subsection. The immunity from liability granted by this  
24 subsection also shall extend to actions arising from a church  
25 operated outpatient medical clinic that exists solely for the  
26 purpose of providing charitable medical services to persons who  
27 are unable to pay for such services, provided that the outpatient

28 clinic receives less than Forty Thousand Dollars (\$40,000.00)  
29 annually in patient payments.

30 (2) Any physician who voluntarily renders any medical  
31 service under a special volunteer medical license authorized under  
32 Section 1 of this act without any payment or compensation or the  
33 expectation or promise of any payment or compensation shall be  
34 immune from liability for any civil action arising out of any act  
35 or omission resulting from the rendering of the medical service  
36 unless the act or omission was the result of the physician's gross  
37 negligence or willful misconduct. In order for the immunity under  
38 this subsection to apply, there must be a written or oral  
39 agreement for the physician to provide a voluntary noncompensated  
40 medical service before the rendering of the service by the  
41 physician.

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

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