

By: Representatives Robertson, Barnett  
(92nd), Masterson

To: Public Health and  
Welfare; Judiciary A

HOUSE BILL NO. 812

1 AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT COMMUNITY HEALTH CLINICS THAT PROVIDE PRIMARY  
3 HEALTH CARE SERVICES TO UNINSURED PATIENTS SHALL BE IMMUNE FROM  
4 LIABILITY EXCEPT IN CASES OF WILLFUL OR GROSS NEGLIGENCE; AND FOR  
5 RELATED PURPOSES.

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

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

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



29 outpatient clinic receives less than Forty Thousand Dollars  
30 (\$40,000.00) annually in patient payments; and (b) actions arising  
31 from a community health clinic that provides primary health care  
32 services to uninsured patients.

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

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

56 **SECTION 2.** This act shall take effect and be in force from  
57 and after July 1, 2003.

