

By: Representative Bondurant

To: Judiciary A

## HOUSE BILL NO. 847

1 AN ACT TO PROVIDE ACCESS TO HEALTH CARE FOR INDIGENT PATIENTS  
2 IN MISSISSIPPI; TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF  
3 1972, TO INCLUDE PHYSICIANS UNDER CONTRACT WITH THE DIVISION OF  
4 MEDICAID IN THE DEFINITION OF EMPLOYEE IN THE TORT CLAIMS ACT; AND  
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** The Legislature finds that a significant portion  
8 of the residents of this state who are Medicaid recipients are  
9 unable to access needed health care because health care providers  
10 fear the increased risk of medical negligence liability. The  
11 Legislature recognizes the importance of assuring adequate health  
12 care services for all Mississippians, and it acknowledges that  
13 physicians are a vital component of providing such services. The  
14 Legislature finds that physicians who provide health care services  
15 to citizens who are Medicaid recipients are providing an essential  
16 public service and that it is in the interest to provide certain  
17 immunities of the state and its political subdivisions liability  
18 protections for these services.

19 **SECTION 2.** Section 11-46-1, Mississippi Code of 1972, is  
20 amended as follows:

21 11-46-1. As used in this chapter the following terms shall  
22 have the meanings herein ascribed unless the context otherwise  
23 requires:

24 (a) "Claim" means any demand to recover damages from a  
25 governmental entity as compensation for injuries.

26 (b) "Claimant" means any person seeking compensation  
27 under the provisions of this chapter, whether by administrative  
28 remedy or through the courts.

29 (c) "Board" means the Mississippi Tort Claims Board.

30 (d) "Department" means the Department of Finance and  
31 Administration.

32 (e) "Director" means the executive director of the  
33 department who is also the executive director of the board.

34 (f) "Employee" means any officer, employee or servant  
35 of the State of Mississippi or a political subdivision of the  
36 state, including elected or appointed officials and persons acting  
37 on behalf of the state or a political subdivision in any official  
38 capacity, temporarily or permanently, in the service of the state  
39 or a political subdivision whether with or without compensation.  
40 The term "employee" shall not mean a person or other legal entity  
41 while acting in the capacity of an independent contractor under  
42 contract to the state or a political subdivision; provided,  
43 however, that for purposes of the limits of liability provided for  
44 in Section 11-46-15, the term "employee" shall include physicians  
45 under contract to provide health services with the Division of  
46 Medicaid, the State Board of Health, the State Board of Mental  
47 Health or any county or municipal jail facility while rendering  
48 services under such contract. The term "employee" shall also  
49 include any physician, dentist or other health care practitioner  
50 employed by the University of Mississippi Medical Center (UMMC)  
51 and its departmental practice plans who is a faculty member and  
52 provides health care services only for patients at UMMC or its  
53 affiliated practice sites. The term "employee" shall also include  
54 any physician, dentist or other health care practitioner employed  
55 by any university under the control of the Board of Trustees of  
56 State Institutions of Higher Learning who practices only on the  
57 campus of any university under the control of the Board of  
58 Trustees of State Institutions of Higher Learning. The term  
59 "employee" shall also include any physician, dentist or other  
60 health care practitioner employed by the State Veterans Affairs  
61 Board and who provides health care services for patients for the

62 State Veterans Affairs Board. The term "employee" shall also  
63 include Mississippi Department of Human Services licensed foster  
64 parents for the limited purposes of coverage under the Tort Claims  
65 Act as provided in Section 11-46-8.

66 (g) "Governmental entity" means and includes the state  
67 and political subdivisions as herein defined.

68 (h) "Injury" means death, injury to a person, damage to  
69 or loss of property or any other injury that a person may suffer  
70 that is actionable at law or in equity.

71 (i) "Political subdivision" means any body politic or  
72 body corporate other than the state responsible for governmental  
73 activities only in geographic areas smaller than that of the  
74 state, including, but not limited to, any county, municipality,  
75 school district, community hospital as defined in Section  
76 41-13-10, Mississippi Code of 1972, airport authority or other  
77 instrumentality thereof, whether or not such body or  
78 instrumentality thereof has the authority to levy taxes or to sue  
79 or be sued in its own name.

80 (j) "State" means the State of Mississippi and any  
81 office, department, agency, division, bureau, commission, board,  
82 institution, hospital, college, university, airport authority or  
83 other instrumentality thereof, whether or not such body or  
84 instrumentality thereof has the authority to levy taxes or to sue  
85 or be sued in its own name.

86 (k) "Law" means all species of law including, but not  
87 limited to, any and all constitutions, statutes, case law, common  
88 law, customary law, court order, court rule, court decision, court  
89 opinion, court judgment or mandate, administrative rule or  
90 regulation, executive order, or principle or rule of equity.

91 **SECTION 3.** This act shall take effect and be in force from  
92 and after July 1, 2006.