MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Ford (73rd), Williamson

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 304

AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972, TO INCLUDE DENTISTS IN THE STATUTE THAT PROVIDES IMMUNITY FROM LIABILITY FOR CERTAIN HEALTH CARE PROVIDERS WHO PROVIDE CHARITABLE HEALTH SERVICES OR PROVIDE HEALTH SERVICES WITHOUT CHARGE WHILE ASSISTING WITH EMERGENCY MANAGEMENT OR OPERATIONS IN AN EMERGENCY; AND FOR RELATED PURPOSES.

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

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

73-25-38. (1) Any licensed physician, dentist, physician assistant or certified nurse practitioner who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for *** * *** such services shall be immune from liability for any civil action arising out of the provision of such medical or health services provided in good faith on a charitable basis. This section shall not extend immunity to acts of willful or gross negligence. Except in cases of rendering emergency care wherein the provisions of Section 73-25-37 apply, immunity under this section shall be extended only if the physician, dentist,

physician assistant or certified nurse practitioner and patient execute a written waiver in advance of the rendering of such medical or health services specifying that such services are provided without the expectation of payment and that the licensed physician, dentist, physician assistant or certified nurse practitioner shall be immune as provided in this subsection. The immunity from liability granted by this subsection also shall extend to actions arising from a church-operated outpatient medical clinic that exists solely for the purpose of providing charitable medical services to persons who are unable to pay for such services, provided that the outpatient clinic receives less than Forty Thousand Dollars ($40,000.00) annually in patient payments.

(2) Any licensed physician, dentist, physician assistant or certified nurse practitioner assisting with emergency management, emergency operations or hazard mitigation in response to any emergency, man-made or natural disaster, who voluntarily provides needed medical or health services to any person without fee or other compensation, shall not be liable for civil damages on the basis of any act or omission if the physician, dentist, physician assistant or nurse practitioner was acting in good faith and within the scope of their license, education and training and the acts or omissions were not caused from gross, willful or wanton acts of negligence.

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.