

By: Representative Holland

To: Public Health and Human
Services

HOUSE BILL NO. 1101

1 AN ACT ENTITLED THE UNIFORM EMERGENCY VOLUNTEER HEALTHCARE
2 PRACTITIONERS ACT; TO PROVIDE DEFINITIONS; TO PROVIDE CONDITIONS
3 APPLICABLE TO PROVIDING HEALTH CARE OR VETERINARY SERVICES WHILE
4 AN EMERGENCY DECLARATION IS IN EFFECT; TO PROVIDE A VOLUNTEER
5 HEALTHCARE PRACTITIONER REGISTRATION SYSTEM UNDER THE STATE
6 DEPARTMENT OF HEALTH; TO PROVIDE FOR INTERSTATE LICENSURE
7 RECOGNITION FOR VOLUNTEER HEALTHCARE PRACTITIONERS; TO PROVIDE
8 ADMINISTRATIVE SANCTIONS FOR FAILURE TO ADHERE TO SCOPE OF
9 PRACTICE REQUIREMENTS; TO CLARIFY THE EFFECT OF RECEIVING
10 COMPENSATION ON THE VOLUNTEER STATUS OF THOSE PRACTITIONERS; TO
11 AUTHORIZE THE STATE BOARD OF HEALTH TO PROMULGATE RULES TO
12 IMPLEMENT THE PROVISIONS OF THIS ACT; TO PROVIDE LIABILITY
13 LIMITATIONS; TO AMEND SECTIONS 73-9-1, 73-10-7, 73-15-3, 73-19-3,
14 73-21-83, 73-22-3, 73-23-35, 73-25-1, 73-25-35, 73-26-3, 73-30-25,
15 73-31-27, 73-39-59, 41-9-7, 41-59-9, 41-59-33, 41-75-5 AND
16 43-11-5, MISSISSIPPI CODE OF 1972, TO CONFORM HEALTHCARE
17 PRACTITIONER LICENSURE STATUTES WITH THE PROVISIONS OF THIS ACT;
18 AND FOR RELATED PURPOSES.

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

20 **SECTION 1. Short title.** This act may be cited as the
21 "Uniform Emergency Volunteer Healthcare Practitioners Act."

22 **SECTION 2. Definitions.** As used in this act:

23 (a) "Biological agent" means a microorganism, virus,
24 infectious substance, naturally occurring or bioengineered
25 product, or other biological material that could cause death,
26 disease or other harm to a human, an animal, a plant or another
27 living organism.

28 (b) "Bioterrorism" means the intentional use or
29 threatened use of a biological agent to harm or endanger members
30 of the public.

31 (c) "Chemical agent" means a poisonous chemical agent
32 that has the capacity to cause death, disease or other harm to a
33 human, an animal, a plant or another living organism.

34 (d) "Chemical terrorism" means the intentional use or
35 threatened use of a chemical agent to harm or endanger members of
36 the public.

37 (e) "Chain of custody" means the methodology of
38 tracking specimens for the purpose of maintaining control and
39 accountability from initial collection to final disposition of the
40 specimens and providing for accountability at each stage of
41 collecting, handling, testing, storing and transporting the
42 specimens and reporting test results.

43 (f) "Comprehensive health care facility" means a health
44 care facility that provides comprehensive inpatient and outpatient
45 health care services. The term includes tertiary care and
46 teaching hospitals.

47 (g) "Contagious disease" means an infectious disease
48 that can be transmitted from person to person, animal to person,
49 or insect to person.

50 (h) "Coroners," "medical examiners" and "funeral
51 directors" have the same meanings as provided in the laws of this
52 state.

53 (i) "Department" means the State Department of Health
54 or any person authorized to act on behalf of the State Department
55 of Health.

56 (j) "Disaster relief organization" means an entity that
57 provides emergency or disaster relief services that include health
58 care or veterinary services provided by volunteer healthcare
59 practitioners and that (i) is designated or recognized as a
60 provider of those services under a disaster response and recovery
61 plan adopted by an agency of the federal government or the
62 department, or (ii) regularly plans and conducts its activities in
63 coordination with an agency of the federal government or the
64 department.

65 (k) "Emergency" means an event or condition that
66 constitutes an emergency as defined by the declaration of

67 emergency by the Governor under Section 33-15-11(b)(6) and/or
68 (c)(1), a declared public health emergency, or other emergency
69 declaration that may require the provision of health care or
70 veterinary services.

71 (l) "Emergency declaration" means a declaration of an
72 emergency issued by a person authorized to do so by the laws of
73 this state.

74 (m) "Emergency Management Assistance Compact" refers to
75 the mutual aid agreement ratified by Congress and signed into law
76 in 1996 as Public Law 104-321, and later enacted by this state and
77 codified in Section 45-18-3.

78 (n) "Emergency System for Advance Registration of
79 Volunteer Health Professionals" means a registration system
80 established by a state and funded through the Health Resources
81 Services Administration under Section 107 of the federal Public
82 Health Security and Bioterrorism Preparedness and Response Act of
83 2002, Public Law 107-188.

84 (o) "Entity" means a person other than an individual.

85 (p) "Facility" means any real property, building,
86 structure, or other improvement to real property or any motor
87 vehicle, rolling stock, aircraft, watercraft or other means of
88 transportation.

89 (q) "Health care facility" means any nonfederal
90 institution, building, or agency or portion thereof, whether
91 public or private (for-profit or nonprofit) that is used, operated
92 or designed to provide health services, medical treatment, or
93 nursing, rehabilitative, or preventive care to any person or
94 persons, that is licensed by the State Department of Health. This
95 includes, but is not limited to, ambulatory surgical facilities,
96 health maintenance organizations, home health agencies, hospices,
97 hospitals, infirmaries, intermediate care facilities, kidney
98 treatment centers, long-term care facilities, medical assistance
99 facilities, mental health centers, outpatient facilities, public

100 health centers, rehabilitation facilities, residential treatment
101 facilities, skilled nursing facilities, and adult day care
102 centers. The term also includes, but is not limited to, the
103 following related property when used for or in connection with the
104 foregoing: laboratories, research facilities, pharmacies, laundry
105 facilities, health personnel training and lodging facilities, and
106 patient, guest, and health personnel food service facilities, and
107 offices and office buildings for persons engaged in health care
108 professions or services.

109 (r) "Healthcare practitioner" means an individual
110 licensed in this or another state to provide health care or
111 veterinary services.

112 (s) "Health care provider" means any person or entity
113 who provides health care services and is licensed by an agency of
114 the State of Mississippi, including, but not limited to,
115 hospitals, nursing homes, special care facilities, medical
116 laboratories, physicians, pharmacists, dentists, physician
117 assistants, nurse practitioners, registered and other nurses,
118 paramedics, fire fighters who provide emergency medical care,
119 emergency medical or laboratory technicians, and ambulance and
120 emergency medical workers. This includes out-of-state medical
121 laboratories, provided that the laboratories have agreed to the
122 reporting requirements of Mississippi. Results must be reported
123 by the laboratory that performs the test, but an in-state
124 laboratory that sends specimens to an out-of-state laboratory also
125 is responsible for reporting results.

126 (t) "Health care services" means the provision of care,
127 services including advice or guidance, or supplies related to the
128 health or death of individuals, or to populations, to the extent
129 necessary to respond to an emergency, including (i) preventive,
130 diagnostic, therapeutic, rehabilitative, maintenance, or
131 palliative care, and counseling, service, assessment, or procedure
132 concerning the physical or mental condition, or functional status,

133 of an individual or that affects the structure or function of the
134 body; (ii) sale or dispensing of a drug, device, equipment, or
135 other item to an individual in accordance with a prescription; and
136 (iii) funeral, cremation, cemetery, or other mortuary services.

137 (u) "Host entity" means an entity in this state that
138 uses volunteer healthcare practitioners to respond to an
139 emergency.

140 (v) "Infectious disease" means a disease caused by a
141 living organism or virus. An infectious disease may or may not be
142 transmissible from person to person, animal to person, or insect
143 to person.

144 (w) "Isolation" and "quarantine" mean the compulsory
145 physical separation (including the restriction of movement or
146 confinement) of individuals and/or groups believed to have been
147 exposed to or known to have been infected with a contagious
148 disease from individuals who are believed not to have been exposed
149 or infected, in order to prevent or limit the transmission of the
150 disease to others; if the context so requires, "quarantine" means
151 compulsory physical separation, including restriction of movement,
152 of populations or groups of healthy people who have been
153 potentially exposed to a contagious disease, or to efforts to
154 segregate these persons within specified geographic areas.

155 "Isolation" means the separation and confinement of individuals
156 known or suspected (via signs, symptoms or laboratory criteria) to
157 be infected with a contagious disease to prevent them from
158 transmitting disease to others.

159 (x) "License" means authorization granted by a state to
160 engage in health care or veterinary services otherwise considered
161 unlawful without that authorization. The term includes
162 authorization granted by the laws of this state to an individual
163 to provide health care or veterinary services based upon a
164 national certification issued by a public or private entity.

165 (y) "Medical Reserve Corps" means a local unit
166 consisting of trained and equipped emergency response, public
167 health, and medical personnel formed under Section 2801 of the
168 Public Health Security and Bioterrorism Preparedness and Response
169 Act of 2002, Public Law 107-188.

170 (z) "Person" means an individual or a corporation,
171 business trust, trust, partnership, limited liability company,
172 association, joint venture, public corporation, government, or
173 governmental subdivision, agency, or instrumentality, or any other
174 legal or commercial organization.

175 (aa) "Protected health information" means any
176 information, whether oral, written, electronic, visual, pictorial,
177 physical or any other form, that relates to an individual's past,
178 present, or future physical or mental health status, condition,
179 treatment, service, products purchased, or provision of care, and
180 that reveals the identity of the individual whose health care is
181 the subject of the information, or where there is a reasonable
182 basis to believe that the information could be utilized (either
183 alone or with other information that is, or reasonably should be
184 known to be, available to predictable recipients of the
185 information) to reveal the identity of that individual.

186 (bb) "Public health emergency" means the occurrence or
187 imminent risk of a qualifying health condition, and specifically
188 includes a hurricane, tornado or other declared natural disaster.

189 (cc) "Public safety authority" means the Department of
190 Public Safety or designated persons authorized to act on behalf of
191 the Department of Public Safety, including, but not limited to,
192 local governmental agencies that act principally to protect or
193 preserve the public safety, or full-time commissioned law
194 enforcement persons.

195 (dd) "Qualifying health condition" means an illness or
196 health condition that may be caused by natural disaster,
197 terrorism, epidemic or pandemic disease, or a novel infectious

198 agent or biological or chemical agent and that poses a substantial
199 risk of a significant number of human fatalities, widespread
200 illness, or serious economic impact to the agricultural sector,
201 including food supply.

202 (ee) "Radioactive material" means a radioactive
203 substance that has the capacity to cause bodily injury or death to
204 a human, an animal, a plant, or another living organism.

205 (ff) "Radiological terrorism" means the intentional use
206 or threatened use of a radioactive material to harm or endanger
207 members of the public.

208 (gg) "Scope of practice" means the extent of the
209 authorization to provide health care or veterinary services
210 granted to a healthcare practitioner by a license issued to the
211 practitioner in the state in which the principal part of the
212 practitioner's services are rendered, including any conditions
213 imposed by the licensing authority.

214 (hh) "Specimens," include, but are not limited to,
215 blood, sputum, urine, stool, other bodily fluids, wastes, tissues,
216 and cultures necessary to perform required tests, and
217 environmental samples or other samples needed to diagnose
218 potential chemical, biological or radiological contamination.

219 (ii) "State" means a state of the United States, the
220 District of Columbia, Puerto Rico, the Virgin Islands, or any
221 territory or insular possession subject to the jurisdiction of the
222 United States.

223 (jj) "State Health Officer" means the Executive
224 Director of the State Department of Health.

225 (kk) "Tests," include, but are not limited to, any
226 diagnostic or investigative analyses necessary to prevent the
227 spread of disease or protect the public's health, safety and
228 welfare.

229 (ll) "Trial court" means the chancery court for the
230 county in which the isolation or quarantine is to occur or to the

231 circuit court for the county in which a public health emergency
232 has been declared.

233 (mm) "Veterinary services" means the provision of care,
234 services including advice or guidance, or supplies related to the
235 health or death of an animal, or to animal populations, to the
236 extent necessary to respond to an emergency, including (i)
237 diagnosis, treatment, or prevention of any animal disease, injury,
238 or other physical, dental, or mental condition by the
239 prescription, administration, or dispensing of any vaccine,
240 medicine, surgery, or therapy; (ii) the use of any procedure for
241 reproductive management; and (iii) the monitoring and treatment of
242 animal populations for diseases that have or demonstrate the
243 potential to spread to humans.

244 (nn) "Volunteer healthcare practitioner" means a
245 healthcare practitioner who provides health care or veterinary
246 services in this state while an emergency declaration is in effect
247 and who, if employed, is not precluded from that status under
248 Section 7.

249 **SECTION 3. Conditions applicable to providing health care or**
250 **veterinary services.** (1) This act applies to volunteer
251 healthcare practitioners only if they are providing health care or
252 veterinary services for a host entity while an emergency
253 declaration is in effect.

254 (2) While an emergency declaration is in effect, the
255 department may limit, restrict, or otherwise regulate (a) the
256 duration of practice by volunteer healthcare practitioners, (b)
257 the geographical areas in which volunteer healthcare practitioners
258 may practice, (c) the types of volunteer healthcare practitioners
259 who may practice, and (d) any other matters necessary to
260 coordinate effectively the provision of health care or veterinary
261 services during the emergency. Orders or directives issued under
262 this section are not subject to the requirements of Section
263 25-43-3.

264 (3) A host entity that uses volunteer healthcare
265 practitioners to provide health care or veterinary services in
266 this state must:

267 (a) Consult and coordinate its activities with the
268 department to the extent practicable to provide for the efficient
269 and effective use of volunteer healthcare practitioners; and

270 (b) Comply with any other applicable laws relating to
271 the management of emergency health care or veterinary services.

272 **SECTION 4. Volunteer healthcare practitioner registration**

273 **systems.** (1) In order to be a registration system, a system
274 must:

275 (a) Accept applications for the registration of
276 volunteer healthcare practitioners before or during an emergency;

277 (b) Include information about the licensure and good
278 standing of practitioners that is accessible by authorized
279 personnel; and

280 (c) Be capable of verifying the accuracy of information
281 concerning whether a practitioner is licensed and in good standing
282 before the time health care or veterinary services are provided
283 under this act.

284 (2) This act applies to volunteer healthcare practitioners
285 only if they are registered with a registration system that
286 complies with subsection (1) and is:

287 (a) An Emergency System for Advance Registration of
288 Volunteer Healthcare Professionals or a Medical Reserve Corps
289 unit;

290 (b) Operated by a disaster relief organization,
291 licensing board, national or regional association of licensing
292 boards or healthcare practitioners, comprehensive health care
293 facility, or governmental entity; or

294 (c) Designated by the department as a registration
295 system for purposes of this act.

296 (3) While an emergency declaration is in effect, the
297 department, a person or persons authorized to act on behalf of the
298 department, or a host entity, are authorized to confirm whether
299 volunteer healthcare practitioners utilized in this state are
300 registered with a registration system. Confirmation is limited to
301 obtaining notification from the registration system of the
302 identities of the practitioners and determining whether the system
303 indicates that they are licensed and in good standing.

304 (4) Upon request of personnel in this state authorized by
305 subsection (3), or similarly authorized personnel in another
306 state, a registration system located in this state must provide
307 notification of the identities of volunteer healthcare
308 practitioners and whether they are licensed and in good standing.

309 (5) A host entity is not required to use the services of a
310 volunteer healthcare practitioner even if the practitioner is
311 registered with a registration system that confirms that the
312 practitioner is licensed and in good standing.

313 **SECTION 5. Interstate licensure recognition for volunteer**
314 **healthcare practitioners.** (1) While an emergency declaration is
315 in effect, a volunteer healthcare practitioner, registered under
316 Section 4 and licensed and in good standing in another state, may
317 practice in this state to the extent authorized by this act as if
318 the person had been licensed in this state.

319 (2) A volunteer healthcare practitioner whose license is
320 suspended, revoked, or subject to an agency order limiting or
321 restricting practice privileges, or who has voluntarily terminated
322 a license under threat of sanction, in any state is not entitled
323 to the rights, privileges, and immunities authorized by this act.

324 (3) This act does not affect credentialing or privileging
325 standards of a health care facility, nor does it preclude a health
326 care facility from waiving or modifying those standards while an
327 emergency declaration is in effect. For purposes of this
328 subsection:

329 (a) Credentialing means obtaining, verifying and
330 assessing the qualifications of a healthcare practitioner to
331 provide patient care, treatment and services in or for a health
332 care facility; and

333 (b) Privileging means the authorization granted by an
334 appropriate authority, such as a governing body, to a healthcare
335 practitioner to provide specific care, treatment, and services at
336 a health care facility subject to limits based on factors that
337 include license, education, training, experience, competence,
338 health status, and specialized judgment.

339 **SECTION 6. Provision of volunteer health care or veterinary**
340 **services; administrative sanctions.** (1) Subject to subsections
341 (2) and (3), a volunteer healthcare practitioner must adhere to
342 the scope of practice for a similarly licensed practitioner
343 established by the licensing provisions, practice acts, or other
344 laws of this state.

345 (2) Subject to subsection (3), nothing in this act
346 authorizes a volunteer healthcare practitioner to provide services
347 that are outside the practitioner's scope of practice even if a
348 similarly licensed practitioner in this state would be permitted
349 to provide the services.

350 (3) The department may modify or restrict the health care or
351 veterinary care services that a volunteer healthcare practitioner
352 may provide under this act. An order or directive modifying the
353 services a practitioner may provide under this subsection is not
354 subject to the requirements of Section 25-43-3.

355 (4) A host entity may restrict the health care or veterinary
356 services that a volunteer healthcare practitioner may provide
357 under this act.

358 (5) A volunteer healthcare practitioner shall not be found
359 to be engaged in unauthorized practice unless the practitioner had
360 reason to know of any limitations, modifications or restrictions
361 under subsection (1), (3) or (4) or that a similarly licensed

362 practitioner in this state would not be permitted to provide the
363 services. For the purposes of this subsection, a volunteer
364 healthcare practitioner has reason to know if the practitioner (a)
365 has actual knowledge of a modification or restriction, or (b) from
366 all the facts and circumstances known to the practitioner at the
367 time in question, a reasonable person would conclude that a
368 modification or restriction exists.

369 (6) A licensing board or other disciplinary authority in
370 this state:

371 (a) May impose administrative sanctions upon a
372 healthcare practitioner licensed in this state for wrongful
373 conduct in response to an emergency that occurs outside this
374 state;

375 (b) May impose administrative sanctions upon a
376 practitioner not licensed in this state for wrongful conduct in
377 response to an emergency that occurs in this state; and

378 (c) Must report any administrative sanctions imposed
379 upon a practitioner licensed in another state to the appropriate
380 licensing board or other disciplinary authority in any other state
381 in which the practitioner is known to be licensed.

382 (7) In determining whether to impose administrative
383 sanctions under subsection (6), a licensing board or other
384 disciplinary authority shall consider any exigent circumstances in
385 which the conduct took place, the practitioner's scope of
386 practice, and the practitioner's education, training, experience,
387 and specialized judgment.

388 **SECTION 7. Effect of compensation on volunteer status.** (1)

389 Subject to subsection (2), the prospective, concurrent, or
390 retroactive payment of monetary or other compensation to a
391 healthcare practitioner by any person for the provision of health
392 care or veterinary services while an emergency declaration is in
393 effect does not preclude the practitioner from being a volunteer
394 healthcare practitioner under this act.

395 (2) Subsection (1) does not apply if compensation is
396 provided to a healthcare practitioner under a preexisting
397 employment relationship with the host entity or an affiliate of
398 the host entity that requires the practitioner to provide health
399 care or veterinary services in this state.

400 (3) Subsection (2) does not apply to a healthcare
401 practitioner who is not a resident of this state and who is
402 employed by a disaster relief organization providing services in
403 this state while an emergency declaration is in effect.

404 **SECTION 8. Relation to other laws.** (1) This act does not
405 limit rights, privileges, or immunities provided to volunteer
406 healthcare practitioners by other laws. Except as provided in
407 subsection (2), this act does not affect requirements for the use
408 of volunteer healthcare practitioners under the Emergency
409 Management Assistance Compact.

410 (2) The department may incorporate into state forces under
411 the Emergency Management Assistance Compact a volunteer healthcare
412 practitioner who is not an employee of this state, a political
413 subdivision of this state, or a municipality or other local
414 government within this state.

415 **SECTION 9. Regulatory authority.** The department is
416 authorized to promulgate administrative rules to implement the
417 provisions of this act. In doing so, the department shall consult
418 with, and consider the recommendations of, the Mississippi
419 Emergency Management Agency, and any other agency established to
420 coordinate the implementation of the Emergency Management
421 Assistance Compact and shall also consult with, and consider the
422 regulations promulgated by, similarly empowered agencies in other
423 states in order to promote uniformity of application of this act
424 and thereby make the emergency response systems in the various
425 states reasonably compatible.

426 **SECTION 10. Duration of emergency; liability limitation.**

427 (1) (a) The appointment of out-of-state emergency health care

428 providers under this section may be for a limited or unlimited
429 time, but must not exceed the termination of the state of public
430 health emergency. The department or other appropriate licensing
431 authority may terminate the out-of-state appointments at any time
432 or for any reason provided that any termination will not
433 jeopardize the health, safety, and welfare of the people of this
434 state.

435 (b) The appropriate licensing authority may waive any
436 or all licensing requirements, permits or fees required by law and
437 applicable orders, rules or regulations for health care providers
438 from other jurisdictions to practice in this state.

439 (c) Any out-of-state emergency health care provider
440 appointed under this section shall not be held liable for any
441 civil damages as a result of medical care or treatment related to
442 the emergency response unless the damages result from providing,
443 or failing to provide, medical care or treatment under
444 circumstances demonstrating a reckless disregard for the
445 consequences so as to affect the life or health of the
446 patient.

447 (2) (a) The appointment of emergency assistant medical
448 examiners or coroners under this section may be for a limited or
449 unlimited time, but must not exceed the termination of the state
450 of public health emergency. The medical examiner or coroner may
451 terminate the emergency appointments at any time or for any
452 reason, provided that any such termination will not impede the
453 performance of the duties of the office.

454 (b) The medical examiner or coroner may waive any or
455 all licensing requirements, permits, or fees required by law and
456 applicable orders, rules or regulations for the performance of
457 these duties.

458 (c) Any person appointed under this section who in good
459 faith performs the assigned duties is not liable for any civil
460 damages for any personal injury as the result of any act or

461 omission, except acts or omissions amounting to gross negligence
462 or willful or wanton misconduct.

463 **SECTION 11.** Section 73-9-1, Mississippi Code of 1972, is
464 amended as follows:

465 73-9-1. Every person who desires to practice dentistry or
466 dental hygiene in this state must obtain a license to do so as
467 hereinafter provided; but this section shall not apply to dentists
468 or dental hygienists now holding permanent licenses to practice
469 provided the same have been recorded as required by law. However,
470 this section shall not be construed to prohibit a licensed
471 volunteer dentist from acting within his scope of practice during
472 an emergency declaration under the conditions of the Uniform
473 Emergency Volunteer Healthcare Practitioners Act.

474 **SECTION 12.** Section 73-10-7, Mississippi Code of 1972, is
475 amended as follows:

476 73-10-7. It shall be unlawful for any person, corporation or
477 association to, in any manner, represent himself or itself as a
478 dietitian or nutritionist, send out billings as providing services
479 covered in Section 73-10-3(j), or use in connection with his or
480 its name, the titles "dietitian," "dietician" or "nutritionist" or
481 use the letters "LD," "LN" or any other facsimile thereof when he
482 or she is not licensed in accordance with the provisions of this
483 chapter or meets the exemptions in paragraph (c) of Section
484 73-10-13. Notwithstanding any other provision of this chapter, a
485 dietitian registered by the Commission on Dietetic Registration
486 (CDR) shall have the right to use the title "Registered Dietitian"
487 and the designation "R.D." Registered dietitians shall be
488 licensed according to the provisions of this chapter to practice
489 dietetics or provide medical nutrition therapy. However, this
490 section shall not be construed to prohibit a licensed volunteer
491 dietitian from acting within his or her scope of practice during
492 an emergency declaration under the conditions of the Uniform
493 Emergency Volunteer Healthcare Practitioners Act.

494 **SECTION 13.** Section 73-15-3, Mississippi Code of 1972, is
495 amended as follows:

496 73-15-3. In order to safeguard life and health, any person
497 practicing or offering to practice as a registered nurse or a
498 licensed practical nurse in Mississippi for compensation shall
499 hereafter be required to submit evidence of qualifications to
500 practice and shall be licensed or hold the privilege to practice
501 as hereinafter provided. It shall be unlawful for any person not
502 licensed or holding the privilege to practice under the provisions
503 of this article:

504 (a) To practice or offer to practice as a registered
505 nurse or a licensed practical nurse;

506 (b) To use a sign, card or device to indicate that such
507 person is a registered nurse or a licensed practical nurse.

508 Any person offering to practice nursing in Mississippi must
509 be licensed or otherwise authorized to practice as provided in
510 this article. However, this section shall not be construed to
511 prohibit a licensed volunteer nurse from acting within his or her
512 scope of practice during an emergency declaration under the
513 conditions of the Uniform Emergency Volunteer Healthcare
514 Practitioners Act.

515 **SECTION 14.** Section 73-19-3, Mississippi Code of 1972, is
516 amended as follows:

517 73-19-3. It shall not be lawful for any person in this state
518 to engage in the practice of optometry or to hold himself out as a
519 practitioner of optometry, or attempt to determine by an
520 examination of the eyes the kind of glasses needed by any person,
521 or to hold himself out as able to examine the eyes of any person
522 for the purpose of fitting the same with glasses, excepting those
523 hereinafter exempted, unless he has first fulfilled the
524 requirements of this chapter and has received a certificate of
525 licensure from the State Board of Optometry created by this
526 chapter, nor shall it be lawful for any person in this state to

527 represent that he is the lawful holder of a certificate of
528 licensure such as provided for in this chapter, when in fact he is
529 not such lawful holder or to impersonate any licensed practitioner
530 of optometry, or to fail to register the certificate as provided
531 by law. However, this section shall not be construed to prohibit
532 a licensed volunteer optometrist from acting within his or her
533 scope of practice during an emergency declaration under the
534 conditions of the Uniform Emergency Volunteer Healthcare
535 Practitioners Act.

536 **SECTION 15.** Section 73-21-83, Mississippi Code of 1972, is
537 amended as follows:

538 73-21-83. (1) The board shall be responsible for the
539 control and regulation of the practice of pharmacy, to include the
540 regulation of pharmacy externs or interns and pharmacist
541 technicians, in this state, the regulation of the wholesaler
542 distribution of drugs and devices as defined in Section 73-21-73,
543 and the distribution of sample drugs or devices by manufacturer's
544 distributors as defined in Section 73-21-73 by persons other than
545 the original manufacturer or distributor in this state.

546 (2) A license for the practice of pharmacy shall be obtained
547 by all persons prior to their engaging in the practice of
548 pharmacy. However, the provisions of this chapter shall not apply
549 to physicians, dentists, veterinarians, osteopaths or other
550 practitioners of the healing arts who are licensed under the laws
551 of the State of Mississippi and are authorized to dispense and
552 administer prescription drugs in the course of their professional
553 practice. However, this section shall not be construed to
554 prohibit a licensed volunteer pharmacist from acting within his or
555 her scope of practice during an emergency declaration under the
556 conditions of the Uniform Emergency Volunteer Healthcare
557 Practitioners Act.

558 (3) The initial licensure fee shall be set by the board but
559 shall not exceed Two Hundred Dollars (\$200.00).

560 (4) All students actively enrolled in a professional school
561 of pharmacy accredited by the American Council on Pharmaceutical
562 Education who are making satisfactory progress toward graduation
563 and who act as an extern or intern under the direct supervision of
564 a pharmacist in a location permitted by the Board of Pharmacy must
565 obtain a pharmacy student registration prior to engaging in such
566 activity. The student registration fee shall be set by the board
567 but shall not exceed One Hundred Dollars (\$100.00).

568 (5) All persons licensed to practice pharmacy prior to July
569 1, 1991, by the State Board of Pharmacy under Section 73-21-89
570 shall continue to be licensed under the provisions of Section
571 73-21-91.

572 **SECTION 16.** Section 73-22-3, Mississippi Code of 1972, is
573 amended as follows:

574 73-22-3. (1) No person shall practice orthotics or
575 prosthetics in the state unless he or she is certified as an
576 orthotist, prosthetist, or both, by the American Board for
577 Certification in Orthotics and Prosthetics. However, nothing in
578 this chapter shall be construed to prevent any person licensed,
579 registered or certified in this state from engaging in the
580 profession or occupation for which he is licensed, registered or
581 certified, as long as he does not represent himself as an
582 orthotist or prosthetist, and nothing in this chapter shall be
583 construed to prevent any physician licensed in this state from
584 performing any activities included within the definition of
585 orthotics or prosthetics in the normal course of his practice as a
586 physician, as long as he does not represent himself as an
587 orthotist or prosthetist. In addition, nothing in this chapter
588 shall be construed to prevent the practice of orthotics or
589 prosthetics by any person who has engaged in the practice of
590 orthotics or prosthetics for a period of twenty-five (25) or more
591 consecutive years before July 1, 1991, and is engaged in the
592 practice of orthotics or prosthetics on July 1, 1991.

593 (2) It is unlawful for any orthotist or prosthetist, or any
594 person on behalf of an orthotist or prosthetist, to solicit the
595 patronage of individual patients for the orthotist or prosthetist
596 by direct contact with a potential customer outside of the place
597 of business of the orthotist or prosthetist.

598 (3) Whenever any person employs or utilizes the services of
599 an orthotist or prosthetist in connection with the person's
600 business, the measuring, fitting, adjusting and approval of any
601 orthotic or prosthetic device furnished to a patient shall be
602 performed only under the direct supervision of a board certified
603 orthotist, in the case of orthotic patients, or under the direct
604 supervision of a board certified prosthetist, in the case of
605 prosthetic patients. "Direct supervision" means involvement by
606 the certified practitioner in each and every case.

607 (4) Any person violating any provision of this section shall
608 be guilty of a misdemeanor and, upon conviction thereof, shall be
609 fined not less than Two Hundred Dollars (\$200.00) nor more than
610 One Thousand Dollars (\$1,000.00), and may be imprisoned in the
611 county jail for not more than six (6) months. In addition, any
612 person sustaining damages as a result of a violation of any
613 provision of this section may recover the amount of those damages,
614 plus a civil penalty of One Thousand Five Hundred Dollars
615 (\$1,500.00) per incident, in any court of competent jurisdiction.

616 (5) This section shall not be construed to prohibit a
617 licensed volunteer orthotist or prosthetist from acting within his
618 or her scope of practice during an emergency declaration under the
619 conditions of the Uniform Emergency Volunteer Healthcare
620 Practitioners Act.

621 **SECTION 17.** Section 73-23-35, Mississippi Code of 1972, is
622 amended as follows:

623 73-23-35. (1) It shall be unlawful for any person,
624 corporation or association to, in any manner, represent himself or
625 itself as a physical therapist, a physical therapist assistant or

626 someone who provides physical therapy services, or use in
627 connection with his or its name the words or letters
628 physiotherapist, registered physical therapist, R.P.T., licensed
629 physical therapist assistant, L.P.T.A., or any other letters,
630 words, abbreviations or insignia, indicating or implying that he
631 or it is a physical therapist, a physical therapist assistant or
632 provides physical therapy services, without a valid existing
633 license as a physical therapist or as a physical therapist
634 assistant, as the case may be, issued to him or it pursuant to
635 this chapter. It shall be unlawful to employ an unlicensed
636 physical therapist or physical therapist assistant to provide
637 physical therapy services.

638 (2) The board shall aid the state's attorneys of the various
639 counties in the enforcement of the provisions of this chapter and
640 the prosecution of any violations thereof. In addition to the
641 criminal penalties provided by this chapter, the civil remedy of
642 injunction shall be available to restrain and enjoin violations of
643 any provisions of this chapter without proof of actual damages
644 sustained by any person.

645 (3) A physical therapist licensed under this chapter shall
646 not perform physical therapy services without a prescription or
647 referral from a person licensed as a physician, dentist,
648 osteopath, podiatrist, chiropractor or nurse practitioner.
649 However, a physical therapist licensed under this chapter may
650 perform physical therapy services without a prescription or
651 referral under the following circumstances:

652 (a) To children with a diagnosed developmental
653 disability pursuant to the patient's plan of care.

654 (b) As part of a home health care agency pursuant to
655 the patient's plan of care.

656 (c) To a patient in a nursing home pursuant to the
657 patient's plan of care.

658 (d) Related to conditioning or to providing education
659 or activities in a wellness setting for the purpose of injury
660 prevention, reduction of stress or promotion of fitness.

661 (e) (i) To an individual for a previously diagnosed
662 condition or conditions for which physical therapy services are
663 appropriate after informing the health care provider rendering the
664 diagnosis. The diagnosis must have been made within the previous
665 one hundred eighty (180) days. The physical therapist shall
666 provide the health care provider who rendered the diagnosis with a
667 plan of care for physical therapy services within the first
668 fifteen (15) days of physical therapy intervention.

669 (ii) Nothing in this chapter shall create
670 liability of any kind for the health care provider rendering the
671 diagnosis under this paragraph (e) for a condition, illness or
672 injury that manifested itself after the diagnosis, or for any
673 alleged damages as a result of physical therapy services performed
674 without a prescription or referral from a person licensed as a
675 physician, dentist, osteopath, podiatrist, chiropractor or nurse
676 practitioner, the diagnosis and/or prescription for physical
677 therapy services having been rendered with reasonable care.

678 (4) Physical therapy services performed without a
679 prescription or referral from a person licensed as a physician,
680 dentist, osteopath, podiatrist, chiropractor or nurse practitioner
681 shall not be construed to mandate coverage for physical therapy
682 services under any health care plan, insurance policy, or workers'
683 compensation or circumvent any requirement for preauthorization of
684 services in accordance with any health care plan, insurance policy
685 or workers' compensation.

686 (5) Nothing in this section shall restrict the Division of
687 Medicaid from setting rules and regulations regarding the coverage
688 of physical therapy services and nothing in this section shall
689 amend or change the Division of Medicaid's schedule of benefits,
690 exclusions and/or limitations related to physical therapy services

691 as determined by state or federal regulations and state and
692 federal law.

693 (6) This section shall not be construed to prohibit a
694 licensed volunteer physical therapist from acting within his or
695 her scope of practice during an emergency declaration under the
696 conditions of the Uniform Emergency Volunteer Healthcare
697 Practitioners Act.

698 (7) This section shall stand repealed on July 1, 2008.

699 **SECTION 18.** Section 73-25-1, Mississippi Code of 1972, is
700 amended as follows:

701 73-25-1. Every person who desires to practice medicine must
702 first obtain a license to do so from the State Board of Medical
703 Licensure, but this section shall not apply to physicians now
704 holding permanent license, the same having been recorded as
705 required by law. However, this section shall not be construed to
706 prohibit a licensed volunteer physician from acting within his or
707 her scope of practice during an emergency declaration under the
708 conditions of the Uniform Emergency Volunteer Healthcare
709 Practitioners Act.

710 **SECTION 19.** Section 73-25-35, Mississippi Code of 1972, is
711 amended as follows:

712 73-25-35. Registered nurses who are licensed and certified
713 by the Mississippi Board of Nursing as nurse practitioners are not
714 prohibited from such nursing practice, but are entitled to engage
715 therein without a physician's license. However, this section
716 shall not be construed to prohibit a licensed volunteer nurse
717 practitioner from acting within his or her scope of practice
718 during an emergency declaration under the conditions of the
719 Uniform Emergency Volunteer Healthcare Practitioners Act.

720 **SECTION 20.** Section 73-26-3, Mississippi Code of 1972, is
721 amended as follows:

722 73-26-3. (1) The State Board of Medical Licensure shall
723 license and regulate the practice of physician assistants in
724 accordance with the provisions of this chapter.

725 (2) All physician assistants who are employed as physician
726 assistants by a Department of Veterans Affairs health care
727 facility, a branch of the United States military or the Federal
728 Bureau of Prisons, and who are practicing as physician assistants
729 in a federal facility in Mississippi on July 1, 2000, and those
730 physician assistants who trained in a Mississippi physician
731 assistant program and have been continuously practicing as a
732 physician assistant in Mississippi since 1976, shall be eligible
733 for licensure if they submit an application for licensure to the
734 board by December 31, 2000. Physician assistants licensed under
735 this subsection will be eligible for license renewal so long as
736 they meet standard renewal requirements.

737 (3) Before December 31, 2004, applicants for physician
738 assistant licensure, except those licensed under subsection (2) of
739 this section, must be graduates of physician assistant educational
740 programs accredited by the Commission on Accreditation of Allied
741 Health Educational Programs or its predecessor or successor
742 agency, have passed the certification examination administered by
743 the National Commission on Certification of Physician Assistants
744 (NCCPA), have current NCCPA certification, and possess a minimum
745 of a baccalaureate degree. Physician assistants meeting these
746 licensure requirements will be eligible for license renewal so
747 long as they meet standard renewal requirements.

748 (4) On or after December 31, 2004, applicants for physician
749 assistant licensure must meet all of the requirements in
750 subsection (3) of this section and, in addition, must have
751 obtained a minimum of a master's degree in a health-related or
752 science field.

753 (5) Applicants for licensure who meet all licensure
754 requirements except for the master's degree may be granted a

755 temporary license by the board so long as they can show proof of
756 enrollment in a master's program that will, when completed, meet
757 the master's degree requirement. The temporary license will be
758 valid for no longer than one (1) year, and may not be renewed.
759 This subsection shall take effect and be in force from and after
760 March 9, 2006. This subsection shall stand repealed on July 1,
761 2010.

762 (6) For new graduate physician assistants and all physician
763 assistants receiving initial licenses in the state, except those
764 licensed under subsection (2) of this section, supervision shall
765 require the on-site presence of a supervising physician for one
766 hundred twenty (120) days.

767 (7) This section shall not be construed to prohibit a
768 licensed volunteer physician assistant from acting within his or
769 her scope of practice during an emergency declaration under the
770 conditions of the Uniform Emergency Volunteer Healthcare
771 Practitioners Act.

772 **SECTION 21.** Section 73-30-25, Mississippi Code of 1972, is
773 amended as follows:

774 73-30-25. It is not the intent of this chapter to regulate
775 against members of other duly regulated professions in this state
776 who do counseling in the normal course of the practice of their
777 own profession. This chapter does not apply to:

778 (a) Any person registered, certified or licensed by the
779 state to practice any other occupation or profession while
780 rendering counseling services in the performance of the occupation
781 or profession for which he is registered, certified or licensed;

782 (b) Certified school counselors when they are
783 practicing counseling within the scope of their employment;

784 (c) Certified vocational counselors when they are
785 practicing vocational counseling within the scope of their
786 employment;

787 (d) Counselors in post-secondary institutions when they
788 are practicing within the scope of their employment;

789 (e) Student interns or trainees in counseling pursuing
790 a course of study in counseling in a regionally or nationally
791 accredited institution of higher learning or training institution
792 if activities and services constitute a part of the supervised
793 course of study, provided that such persons be designated a
794 counselor intern;

795 (f) Professionals employed by regionally or nationally
796 accredited post-secondary institutions as counselor educators when
797 they are practicing counseling within the scope of their
798 employment;

799 (g) Professionals registered, certified or licensed by
800 a recognized state or national professional association that has a
801 published code of ethics and requires adherence to same;

802 (h) Duly ordained ministers or clergy while functioning
803 in their ministerial capacity and duly accredited Christian
804 Science practitioners;

805 (i) Professional employees of regional mental health
806 centers, state mental hospitals, vocational rehabilitation
807 institutions, youth court counselors and employees of the
808 Mississippi Department of Employment Security or other
809 governmental agency so long as they practice within the scope of
810 their employment;

811 (j) Professional employees of alcohol or drug abuse
812 centers or treatment facilities, whether privately or publicly
813 funded, so long as they practice within the scope of their
814 employment;

815 (k) Private employment counselors;

816 (l) Any nonresident temporarily employed in this state
817 to render counseling services for not more than thirty (30) days
818 in any year, if in the opinion of the board the person would
819 qualify for a license under this chapter and if the person holds

820 any license required for counselors in his home state or country;
821 and

822 (m) Any social workers holding a master's degree in
823 social work from a school accredited by the Council on Social Work
824 Education and who do counseling in the normal course of the
825 practice of their own profession.

826 (n) Any licensed volunteer nonresident or other
827 individual rendering counseling services within his or her scope
828 of practice during an emergency declaration under the conditions
829 of the Uniform Emergency Volunteer Healthcare Practitioners Act.

830 **SECTION 22.** Section 73-31-27, Mississippi Code of 1972, is
831 amended as follows:

832 73-31-27. (1) Nothing in this chapter shall be construed to
833 limit:

834 (a) The activities, services, and use of an official
835 title on the part of a person in the employ of a federal, state,
836 county or municipal agency, or of other political subdivisions, or
837 any educational institution chartered by the state, insofar as
838 such activities, services and use of an official title are a part
839 of the duties of his office or position with such agency or
840 institution; or

841 (b) The activities, services and use of an official
842 title on the part of a person in the employ of an exempt
843 organization (in any state) who may be employed by another exempt
844 organization for a consulting fee; or

845 (c) The activities and services of a student, intern or
846 trainee in psychology pursuing a course of study in psychology at
847 an institution of higher education, if these activities and
848 services constitute a part of his supervised course of study; or

849 (d) The services and activities of members of other
850 professional groups licensed or certified by the State of
851 Mississippi who perform work of a psychological nature consistent
852 with their training, work experience history, and with any code of

853 ethics of their respective professions, provided they do not hold
854 themselves out to be psychologists. The practice of psychology as
855 defined by this act overlaps with the activities of other
856 professional groups and it is not the intent of this act to
857 regulate the activities of these professional groups.

858 (e) A licensed volunteer psychologist from acting
859 within his or her scope of practice during an emergency
860 declaration under the conditions of the Uniform Emergency
861 Volunteer Healthcare Practitioners Act.

862 (2) Individuals certified by the Mississippi State
863 Department of Education may use appropriate titles such as "school
864 psychologist," "certified school psychologist," "educational
865 psychologist" or "psychometrist" only when they are employed by
866 or under contract with a school district and practicing in school
867 or educational settings.

868 (3) Lecturers from any school or college may utilize their
869 academic or research title when invited to present lectures to
870 institutions or organizations.

871 This section shall stand repealed from and after July 1,
872 2011.

873 **SECTION 23.** Section 73-39-59, Mississippi Code of 1972, is
874 amended as follows:

875 73-39-59. (1) No person may practice veterinary medicine in
876 the state who is not a licensed veterinarian or the holder of a
877 valid temporary permit issued by the board unless otherwise exempt
878 under this chapter. However, this section shall not be construed
879 to prohibit a licensed volunteer veterinarian from acting within
880 his or her scope of practice during an emergency declaration under
881 the conditions of the Uniform Emergency Volunteer Healthcare
882 Practitioners Act.

883 (2) No person may practice veterinary medicine in the state
884 except within the context of a veterinarian-client-patient
885 relationship.

886 (3) A veterinarian-client-patient relationship cannot be
887 established solely by telephonic or other electronic means.

888 **SECTION 24.** Section 41-9-7, Mississippi Code of 1972, is
889 amended as follows:

890 41-9-7. No person or governmental unit, acting severally or
891 jointly with any other person or governmental unit shall
892 establish, conduct, or maintain a hospital in this state without a
893 license as provided for in Section 41-9-11. No license so granted
894 shall permit, approve or allow child placement activities by any
895 person or governmental unit licensed hereunder. However, this
896 section shall not be construed to prohibit a hospital or a
897 licensed volunteer healthcare practitioner from acting within his
898 or her scope of practice during an emergency declaration under the
899 conditions of the Uniform Emergency Volunteer Healthcare
900 Practitioners Act.

901 **SECTION 25.** Section 41-59-9, Mississippi Code of 1972, is
902 amended as follows:

903 41-59-9. From and after October 1, 1974, no person, firm,
904 corporation, association, county, municipality, or metropolitan
905 government or agency, either as owner, agent or otherwise, shall
906 hereafter furnish, operate, conduct, maintain, advertise or
907 otherwise engage in the business of service of transporting
908 patients upon the streets, highways or airways of Mississippi
909 unless he holds a currently valid license and permit, for each
910 ambulance, issued by the board. However, this section shall not
911 be construed to prohibit a licensed ambulance service or a
912 volunteer healthcare practitioner from acting within his or her
913 scope of practice during an emergency declaration under the
914 conditions of the Uniform Emergency Volunteer Healthcare
915 Practitioners Act.

916 **SECTION 26.** Section 41-59-33, Mississippi Code of 1972, is
917 amended as follows:

918 41-59-33. Any person desiring certification as an emergency
919 medical technician shall apply to the board using forms prescribed
920 by the board. Each application for an emergency medical
921 technician certificate shall be accompanied by a certificate fee
922 to be fixed by the board, which shall be paid to the board. Upon
923 the successful completion of the board's approved emergency
924 medical technical training program, the board shall make a
925 determination of the applicant's qualifications as an emergency
926 medical technician as set forth in the regulations promulgated by
927 the board, and shall issue an emergency medical technician
928 certificate to the applicant. However, this section shall not be
929 construed to prohibit a certified volunteer emergency medical
930 technician from acting within his or her scope of practice during
931 an emergency declaration under the conditions of the Uniform
932 Emergency Volunteer Healthcare Practitioners Act.

933 **SECTION 27.** Section 41-75-5, Mississippi Code of 1972, is
934 amended as follows:

935 41-75-5. No person as defined in Section 41-7-173, of the
936 Mississippi Code of 1972, acting severally or jointly with any
937 other person, shall establish, conduct, operate or maintain an
938 ambulatory surgical facility or an abortion facility in this state
939 without a license under this chapter. However, this section shall
940 not be construed to prohibit an ambulatory surgical facility or a
941 licensed volunteer healthcare practitioner from acting within his
942 or her scope of practice during an emergency declaration under the
943 conditions of the Uniform Emergency Volunteer Healthcare
944 Practitioners Act.

945 **SECTION 28.** Section 43-11-5, Mississippi Code of 1972, is
946 amended as follows:

947 43-11-5. No person, acting severally or jointly with any
948 other person, shall establish, conduct, or maintain an institution
949 for the aged or infirm in this state without a license under this
950 chapter. However, this section shall not be construed to prohibit

951 a licensed nursing home or a volunteer healthcare practitioner
952 from acting within his or her scope of practice during an
953 emergency declaration under the conditions of the Uniform
954 Emergency Volunteer Healthcare Practitioners Act.

955 **SECTION 29.** This act shall take effect and be in force from
956 and after July 1, 2007.