To: Public Health and Human Services

House Bill No. 1387

An Act to Amend Section 33-15-5, Mississippi Code of 1972, to include pandemics and epidemics within the definition of the term "natural emergency" for the purposes of the Mississippi Emergency Management Law; to amend Section 33-15-11, Mississippi Code of 1972, to allow the Governor to direct the State Department of Health to carry out certain functions relative to the disposal of dangerous wastes or other contaminated property in the wake of a pandemic, epidemic or act of terrorism; to amend Section 41-15-11, Mississippi Code of 1972, to direct the State Board of Health to adopt rules and regulations necessary for compliance with this Act; to amend Section 41-23-1, Mississippi Code of 1972, to require veterinarians, certain stock dealers and pharmacists to report to the Department of Health any diseases that may be caused by bioterrorism, epidemic or pandemic disease; to amend Section 41-23-5, Mississippi Code of 1972, to authorize the Department of Health to take responsibility for death investigations in certain circumstances; to create a new Section 41-39-55, Mississippi Code of 1972, to provide when the Department of Health may take charge of corpses following a pandemic, epidemic or act of terrorism; and for related purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. Section 33-15-5, Mississippi Code of 1972, is amended as follows:

33-15-5. The following words, whenever used in this article shall, unless a different meaning clearly appears from the context, have the following meanings:

(a) "Agency" means the Mississippi Emergency Management Agency, created by Section 33-15-7.

(b) "Director" means the Director of Emergency Management, appointed pursuant to Section 33-15-7.

(c) "Emergency management" means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

(i) Reduction of vulnerability of people and communities of this state to damage, injury and loss of life and...
property resulting from natural, technological or man-made
emergencies or hostile military paramilitary action.

(ii) Preparation for prompt and efficient response
and recovery to protect lives and property affected by
emergencies.

(iii) Response to emergencies using all systems,
plans and resources necessary to preserve adequately the health,
safety and welfare of persons or property affected by the
emergency.

(iv) Recovery from emergencies by providing for
the rapid and orderly start of restoration and rehabilitation of
persons and property affected by emergencies.

(v) Provision of an emergency management system
embodying all aspects of preemergency preparedness and
postemergency response, recovery and mitigation.

(vi) Assistance in anticipation, recognition,
appraisal, prevention and mitigation of emergencies which may be
caused or aggravated by inadequate planning for, and regulation of
public and private facilities and land use.

(d) "Civil defense," whenever it appears in the laws of
the State of Mississippi, shall mean "emergency management" unless
the context clearly indicates otherwise.

(e) "State of war emergency" means the condition which
exists immediately, with or without a proclamation thereof by the
Governor, whenever this state or nation is attacked by an enemy of
the United States or upon receipt by the state of a warning from
the federal government indicating that such an attack is probable
or imminent.

(f) "State of emergency" means the duly proclaimed
existence of conditions of disaster or extreme peril to the safety
of persons or property within the state caused by air or water
pollution, fire, flood, storm, epidemic, earthquake, hurricane,
resource shortages, or other natural or man-made conditions other
than conditions causing a "state of war emergency," which
conditions by reasons of their magnitude are or are likely to be
beyond the control of the services, personnel, equipment and
facilities of any single county and/or municipality and requires
combined forces of the state to combat.

(g) "Local emergency" means the duly proclaimed
existence of conditions of disaster or extreme peril to the safety
of persons and property within the territorial limits of a county
and/or municipality caused by such conditions as air or water
pollution, fire, flood, storm, epidemic, earthquake, hurricane,
resource shortages or other natural or man-made conditions, which
conditions are or are likely to be beyond the control of the
services, personnel, equipment and facilities of the political
subdivision and require the combined forces of other subdivisions
or of the state to combat.

(h) "Emergency" means any occurrence, or threat
thereof, whether natural, technological, or man-made, in war or in
peace, which results or may result in substantial injury or harm
to the population or substantial damage to or loss of property.

(i) "Man-made emergency" means an emergency caused by
an action against persons or society, including, but not limited
to, emergency attack, sabotage, terrorism, civil unrest or other
action impairing the orderly administration of government.

(j) "Natural emergency" means an emergency caused by a
natural event, including, but not limited to, a hurricane, a
storm, a flood, severe wave action, a drought or an earthquake.
The term "natural emergency" also includes pandemics and
epidemics.

(k) "Technological emergency" means an emergency caused
by a technological failure or accident, including, but not limited
to, an explosion, transportation accident, radiological accident,
or chemical or other hazardous material incident.
"Local emergency management agency" means an organization created to discharge the emergency management responsibilities and functions of a political subdivision.

"Disaster" means any natural, technological or civil emergency as defined in this section that causes damage of sufficient severity and magnitude to result in a declaration of an emergency by a county or municipality, the Governor or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(i) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(ii) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(iii) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

"Disaster Reservist" means any person hired on a temporary basis pursuant to State Personnel Board policies and procedures regulating personal service contracts, that is hired to perform specific tasks related to a Governor's State of Emergency, or by an emergency or disaster declaration of the President of the United States, by the agency, and is assigned to perform such duties as may be required under the direction of the appropriate agency supervisor.

"Emergency impact area" means the area of the state in which market conditions exist due to a state of emergency creating a likelihood that prices ordinarily charged for goods and services could be raised unfairly due to the underlying emergency.

SECTION 2. Section 33-15-11, Mississippi Code of 1972, is amended as follows:
33-15-11. (a) The Governor shall have general direction and control of the activities of the Emergency Management Agency and Council and shall be responsible for the carrying out of the provisions of this article, and in the event of a man-made, technological or natural disaster or emergency beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(b) In performing his duties under this article, the Governor is further authorized and empowered:

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article with due consideration of the plans of the federal government, and to enter into disaster assistance grants and agreements with the federal government under the terms as may be required by federal law.

(2) To work with the Mississippi Emergency Management Agency in preparing a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such local plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

(3) In accordance with such plan and program for emergency management of this state, to ascertain the requirements of the state or the political subdivisions thereof for food or clothing or other necessities of life in the event of attack or natural or man-made or technological disasters and to plan for and procure supplies, medicines, materials and equipment, and to use and employ from time to time any of the property, services and resources within the state, for the purposes set forth in this
article; to make surveys of the industries, resources and facilities within the state as are necessary to carry out the purposes of this article; to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(4) To cooperate with the President and the heads of the Armed Forces, and the Emergency Management Agency of the United States, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies, for any action looking to emergency management, including the direction or control of (a) blackouts and practice blackouts, air raid drills, mobilization of emergency management forces, and other tests and exercises, (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, (c) the effective screening or extinguishing of all lights and lighting devices and appliances, (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, and (g) the evacuation and reception of the civilian population.

(5) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance
with the provisions of this article and with the orders, rules and
regulations made pursuant thereto.

(6) To employ such measures and give such directions to
the state or local boards of health as may be reasonably necessary
for the purpose of securing compliance with the provisions of this
article or with the findings or recommendations of such boards of
health by reason of conditions arising from enemy attack or the
threat of enemy attack or natural, man-made or technological
disaster.

(7) To utilize the services and facilities of existing
officers and agencies of the state and of the political
subdivisions thereof; and all such officers and agencies shall
cooperate with and extend their services and facilities to the
Governor as he may request.

(8) To establish agencies and offices and to appoint
executive, technical, clerical and other personnel as may be
necessary to carry out the provisions of this article including,
with due consideration to the recommendation of the local
authorities, part-time or full-time state and regional area
directors.

(9) To delegate any authority vested in him under this
article, and to provide for the subdelegation of any such
authority.

(10) On behalf of this state to enter into reciprocal
aid agreements or compacts with other states and the federal
government, either on a statewide basis or local political
subdivision basis or with a neighboring state or province of a
foreign country. Such mutual aid arrangements shall be limited to
the furnishings or exchange of food, clothing, medicine and other
supplies; engineering services; emergency housing; police
services; national or state guards while under the control of the
state; health, medical and related services; fire fighting,
rescue, transportation and construction services and equipment;
personnel necessary to provide or conduct these services; and such
other supplies, equipment, facilities, personnel and services as
may be needed; the reimbursement of costs and expenses for
equipment, supplies, personnel and similar items for mobile
support units, fire fighting and police units and health units;
and on such terms and conditions as are deemed necessary.

(11) To sponsor and develop mutual aid plans and
agreements between the political subdivisions of the state,
similar to the mutual aid arrangements with other states referred
to above.

(12) To collect information and data for assessment of
vulnerabilities and capabilities within the borders of Mississippi
as it pertains to the nation and state's security and homeland
defense. This information shall be exempt from the Mississippi
Public Records Act, Section 25-61-1 et seq.

(13) Authorize any agency or arm of the state to create
a special emergency management revolving fund, accept donations,
contributions, fees, grants, including federal funds, as may be
necessary for such agency or arm of the state to administer its
functions of this article as set forth in the Executive Order of
the Governor.

(14) To authorize the Commissioner of Public Safety to
select, train, organize and equip a ready reserve of auxiliary
highway patrolmen.

(15) To suspend or limit the sale, dispensing or
transportation of alcoholic beverages, firearms, explosives and
combustibles.

(16) To control, restrict and regulate by rationing,
freezing, use of quotas, prohibitions on shipments, price fixing,
allocation or other means, the use, sale or distribution of food,
feed, fuel, clothing and other commodities, materials, goods or
services.
(17) To proclaim a state of emergency in an area affected or likely to be affected thereby when he finds that the conditions described in Section 33-15-5(g) exist, or when he is requested to do so by the mayor of a municipality or by the president of the board of supervisors of a county, or when he finds that a local authority is unable to cope with the emergency. Such proclamation shall be in writing and shall take effect immediately upon its execution by the Governor. As soon thereafter as possible, such proclamation shall be filed with the Secretary of State and be given widespread notice and publicity. The Governor, upon advice of the director, shall review the need for continuing the state of emergency at least every thirty (30) days until the emergency is terminated and shall proclaim a reduction of area or the termination of the state of emergency at the earliest possible date that conditions warrant.

(18) To declare an emergency impact area when he finds that the conditions described in Section 33-15-5(o) exist. The proclamation shall be in writing and shall take effect immediately upon its execution by the Governor. As soon as possible, the proclamation shall be filed with the Secretary of State and be given widespread notice and publicity. The Governor shall review the need for continuing the declaration of emergency impact area at least every thirty (30) days until the emergency is terminated, and shall proclaim the reduction of the emergency impact area or termination of the declaration of emergency impact area at the earliest date or dates possible.

(c) In addition to the powers conferred upon the Governor in this section, the Legislature * * * expressly delegates to the Governor the following powers and duties in the event of an impending enemy attack, an enemy attack, or a man-made, technological or natural disaster where such disaster is beyond local control:
(1) To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with a disaster or emergency.

(2) To transfer the direction, personnel or functions of state agencies, boards, commissions or units thereof for the purpose of performing or facilitating disaster or emergency services.

(3) To commandeer or utilize any private property if necessary to cope with a disaster or emergency, provided that such private property so commandeered or utilized shall be paid for under terms and conditions agreed upon by the participating parties. The owner of the property shall immediately be given a receipt for the private property and the receipt shall serve as a valid claim against the Treasury of the State of Mississippi for the agreed upon market value of the property.

(4) To perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population in coping with a disaster or emergency.

(d) (1) Following the declaration of an emergency on the grounds of a natural disaster arising out of an epidemic or pandemic, or man-made disaster arising out of an act of terrorism, the Governor may direct the appropriate licensing authority, in conjunction with the State Board of Health, to exercise the following powers for the duration of the emergency regarding the licensure and deployment of health personnel:

(i) To require in-state health care providers to assist in the performance of vaccination, treatment, examination or testing of any individual as a condition of licensure,
authorization or the ability to continue to function as a health
care provider in this state;

(ii) To appoint and prescribe the duties of
out-of-state emergency health care providers as may be reasonable
and necessary for emergency response; and

(iii) To authorize the medical examiner or coroner
to appoint and prescribe the duties of such emergency assistant
medical examiners or coroners as may be required for the proper
performance of the duties of the office.

(2) (i) The appointment of out-of-state emergency
health care providers under this subsection (d) may be for a
limited or unlimited time, but must not exceed the termination of
the state of public health emergency. The appropriate licensing
authority may terminate the out-of-state appointments at any time
or for any reason, provided that any termination will not
jeopardize the health, safety, and welfare of the people of this
state.

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

(iii) Any out-of-state emergency health care
provider appointed under this subsection (d) shall not be held
liable for any civil damages as a result of medical care or
treatment related to the emergency response unless the damages
result from providing, or failing to provide, medical care or
treatment under circumstances demonstrating a reckless disregard
for the consequences so as to affect the life or health of the
patient.

(3) (i) The appointment of emergency assistant medical
examiners or coroners under this subsection (d) may be for a
limited or unlimited time, but must not exceed the termination of
the state of public health emergency. The medical examiner or
coroner may terminate the emergency appointments at any time or for any reason, provided that any such termination will not impede the performance of the duties of the office.

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

(iii) Any person appointed under this subsection (d) who in good faith performs the assigned duties is not liable for any civil damages for any personal injury as the result of any act or omission, except acts or omissions amounting to gross negligence or willful or wanton misconduct.

(4) All powers granted by this subsection (d) shall terminate at the conclusion of the emergency.

(e) Following the declaration of an emergency on the grounds of a natural disaster arising out of an epidemic or pandemic, or man-made disaster arising out of an act of terrorism, the Governor may direct the State Department of Health to take the following measures respecting property both real and personal that may have been contaminated:

(1) To close, compel evacuation, decontaminate, or cause to be decontaminated, any facility of which there is reasonable cause to believe that it may endanger the public health;

(2) To decontaminate, or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe that it may endanger the public health;

(3) To adopt measures for the safe disposal of infectious waste as may be reasonable and necessary to respond to the emergency. Those measures may include, but are not limited to, the collection, storage, handling, destruction, transportation and disposal of infectious waste;
(4) To require any business or facility authorized to collect, store, handle, destroy, treat, transport and dispose of infectious waste under the laws of this state, and any landfill business or other property, to accept infectious waste or provide service or the use of the business, facility or property if that action is reasonable and necessary to respond to the emergency as a condition of licensure, authorization or the ability to continue doing business in the state in such a business or facility. The use of the business or facility or property may include transferring the management and operation of the business or facility or property to the public health authority for a limited period of time not to exceed the period of the declared emergency. In extraordinary cases, the State Department of Health may request that the Governor exercise his powers under paragraph (3) of subsection (c) of this section to commandeer the business or facility if the public health demand that action;

(5) All bags, boxes or other containers containing infectious wastes shall by regulation of the State Department of Health clearly identify the type of infectious waste contained in such bag, box or other container;

(6) To the extent practicable and consistent with the requirements of the public’s health, the State Department of Health shall, before destroying any property, institute appropriate civil proceedings against the property to be destroyed in accordance with existing laws of the state, or any court rules or common law principles regarding those actions. Any property acquired by the department through those proceedings shall after entry of decree be disposed of by destruction as the court may direct.

All powers granted by this subsection (e) shall terminate at the conclusion of the declared emergency.

SECTION 3. Section 41-3-15, Mississippi Code of 1972, is amended as follows:
41-3-15. (1) There shall be a State Department of Health which shall be organized into such bureaus and divisions as are considered necessary by the executive officer, and shall be assigned appropriate functions as are required of the State Board of Health by law, subject to the approval of the board.

(2) The State Board of Health shall have the authority to establish an Office of Rural Health within the department. The duties and responsibilities of this office shall include the following:

(a) To collect and evaluate data on rural health conditions and needs;

(b) To engage in policy analysis, policy development and economic impact studies with regard to rural health issues;

(c) To develop and implement plans and provide technical assistance to enable community health systems to respond to various changes in their circumstances;

(d) To plan and assist in professional recruitment and retention of medical professionals and assistants; and

(e) To establish information clearinghouses to improve access to and sharing of rural health care information.

(3) The State Board of Health shall have general supervision of the health interests of the people of the state and to exercise the rights, powers and duties of those acts which it is authorized by law to enforce.

(4) The State Board of Health shall have authority:

(a) To make investigations and inquiries with respect to the causes of disease and death, and to investigate the effect of environment, including conditions of employment and other conditions which may affect health, and to make such other investigations as it may deem necessary for the preservation and improvement of health.

(b) To make such sanitary investigations as it may, from time to time, deem necessary for the protection and
improvement of health and to investigate nuisance questions which affect the security of life and health within the state.

(c) To direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread.

(d) To obtain, collect and preserve such information relative to mortality, morbidity, disease and health as may be useful in the discharge of its duties or may contribute to the prevention of disease or the promotion of health in this state.

(e) To enter into contracts or agreements with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest.

(f) To charge and collect reasonable fees for health services, including immunizations, inspections and related activities, and the board shall charge fees for such services; however, if it is determined that a person receiving services is unable to pay the total fee, the board shall collect any amount such person is able to pay.

(g) To accept gifts, trusts, bequests, grants, endowments or transfers of property of any kind.

(h) To receive monies coming to it by way of fees for services or by appropriations.

(i) (i) To establish standards for, issue permits and exercise control over, any cafes, restaurants, food or drink stands, sandwich manufacturing establishments, and all other establishments, other than churches, church-related and private schools, and other nonprofit or charitable organizations, where food or drink is regularly prepared, handled and served for pay; and

(ii) To require that a permit be obtained from the Department of Health before such persons begin operation. If any such person fails to obtain the permit required herein, the State
Board of Health, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed One Thousand Dollars ($1,000.00) for each violation. However, the department is not authorized to impose a monetary penalty against any person whose gross annual prepared food sales are less than Five Thousand Dollars ($5,000.00). Money collected by the board under this item shall be deposited to the credit of the State General Fund of the State Treasury. This subparagraph (ii) shall stand repealed on July 1, 2007.

(j) To promulgate rules and regulations and exercise control over the production and sale of milk pursuant to the provisions of Sections 75-31-41 through 75-31-49.

(k) On presentation of proper authority, to enter into and inspect any public place or building where the State Health Officer or his representative deems it necessary and proper to enter for the discovery and suppression of disease and for the enforcement of any health or sanitary laws and regulations in the state.

(l) To conduct investigations, inquiries and hearings, and to issue subpoenas for the attendance of witnesses and the production of books and records at any hearing when authorized and required by statute to be conducted by the State Health Officer or the State Board of Health.

(m) To employ, subject to the regulations of the State Personnel Board, qualified professional personnel in the subject matter or fields of each bureau, and such other technical and clerical staff as may be required for the operation of the department. The executive officer shall be the appointing authority for the department, and shall have the power to delegate the authority to appoint or dismiss employees to appropriate subordinates, subject to the rules and regulations of the State Personnel Board.
(n) To promulgate rules and regulations, and to collect data and information, on (i) the delivery of services through the practice of telemedicine; and (ii) the use of electronic records for the delivery of telemedicine services.

(o) To enforce and regulate domestic and imported fish as authorized under Section 69-7-601 et seq.

(5) (a) The State Board of Health shall have the authority, in its discretion, to establish programs to promote the public health, to be administered by the State Department of Health. Specifically, such programs may include, but shall not be limited to, programs in the following areas:

(i) Maternal and child health;
(ii) Family planning;
(iii) Pediatric services;
(iv) Services to crippled and disabled children;
(v) Control of communicable and noncommunicable disease;
(vi) Child care licensure;
(vii) Radiological health;
(viii) Dental health;
(ix) Milk sanitation;
(x) Occupational safety and health;
(xi) Food, vector control and general sanitation;
(xii) Protection of drinking water;
(xiii) Sanitation in food handling establishments open to the public;
(xiv) Registration of births and deaths and other vital events;
(xv) Such public health programs and services as may be assigned to the State Board of Health by the Legislature or by executive order; and
(xvi) Regulation of domestic and imported fish for human consumption.
(b) The State Board of Health and State Department of Health shall not be authorized to sell, transfer, alienate or otherwise dispose of any of the home health agencies owned and operated by the department on January 1, 1995, and shall not be authorized to sell, transfer, assign, alienate or otherwise dispose of the license of any of those home health agencies, except upon the specific authorization of the Legislature by an amendment to this section. However, this paragraph (b) shall not prevent the board or the department from closing or terminating the operation of any home health agency owned and operated by the department, or closing or terminating any office, branch office or clinic of any such home health agency, or otherwise discontinuing the providing of home health services through any such home health agency, office, branch office or clinic, if the board first demonstrates that there are other providers of home health services in the area being served by the department's home health agency, office, branch office or clinic that will be able to provide adequate home health services to the residents of the area if the department's home health agency, office, branch office or clinic is closed or otherwise discontinues the providing of home health services. This demonstration by the board that there are other providers of adequate home health services in the area shall be spread at length upon the minutes of the board at a regular or special meeting of the board at least thirty (30) days before a home health agency, office, branch office or clinic is proposed to be closed or otherwise discontinue the providing of home health services.

(c) The State Department of Health may undertake such technical programs and activities as may be required for the support and operation of such programs, including maintaining physical, chemical, bacteriological and radiological laboratories, and may make such diagnostic tests for diseases and tests for the
evaluation of health hazards as may be deemed necessary for the
protection of the people of the state.

(6) (a) The State Board of Health shall administer the
local governments and rural water systems improvements loan
program in accordance with the provisions of Section 41-3-16.

(b) The State Board of Health shall have authority:

(i) To enter into capitalization grant agreements
with the United States Environmental Protection Agency, or any
successor agency thereto;

(ii) To accept capitalization grant awards made
under the federal Safe Drinking Water Act, as amended;

(iii) To provide annual reports and audits to the
United States Environmental Protection Agency, as may be required
by federal capitalization grant agreements; and

(iv) To establish and collect fees to defray the
reasonable costs of administering the revolving fund or emergency
fund if the State Board of Health determines that such costs will
exceed the limitations established in the federal Safe Drinking
Water Act, as amended. The administration fees may be included in
loan amounts to loan recipients for the purpose of facilitating
payment to the board; however, such fees may not exceed five
percent (5%) of the loan amount.

(7) The State Board of Health shall adopt any and all
regulations or rules necessary to insure compliance with House
Bill No. 1387, 2007 Regular Session.

SECTION 4. Section 41-23-1, Mississippi Code of 1972, is
amended as follows:

41-23-1. (1) The State Board of Health shall adopt rules
and regulations (a) defining and classifying communicable diseases
and other diseases that are a danger to health based upon the
characteristics of the disease; and (b) establishing reporting,
monitoring and preventive procedures for those diseases.
(2) Upon the death of any person who has been diagnosed as having Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) or any Class 1 disease as designated by the State Board of Health, in a hospital or other health care facility, in all other cases where there is an attending physician, and in cases in which the medical examiner, as defined in Section 41-61-53(f), investigates and certifies the cause of death, the attending physician, the person in charge of the hospital or health care facility, or the medical examiner, as the case may be, shall report as soon as practicable to the Executive Officer of the State Board of Health or to other authorities the cause or contributing cause of death as required by the State Board of Health. Such reporting shall be according to procedures as required by the State Board of Health.

(3) Upon the death of any person who has been diagnosed as having Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), where there is not an attending physician, any family member or other person making disposition of the body who knows that such decedent had been diagnosed as having HIV/AIDS shall report this fact to the medical examiner as defined in Section 41-61-53(f), who shall report as soon as practicable to the Executive Officer of the State Board of Health or to other authorities the cause or contributing cause of death as required by the State Board of Health. Such reporting shall be according to procedures as required by the State Board of Health.

(4) Every practicing or licensed physician, or person in charge of a hospital, health care facility, insurance company which causes to be performed blood tests for underwriting purposes or laboratory, shall report immediately to the Executive Officer of the State Board of Health or to other authorities as required by the State Board of Health every case of such diseases as shall be required to be reported by the State Board of Health. Such reporting shall be according to procedures, and shall include such
information about the case, as shall be required by the State
Board of Health. Insurance companies having such blood test
results shall report immediately to the Executive Officer of the
State Board of Health or to other authorities as required by the
State Board of Health every case of such diseases as shall be
required to be reported by the State Board of Health. The
insurance company shall notify the individual on whom the blood
test was performed in writing by certified mail of an adverse
underwriting decision based upon the results of such individual's
blood test but shall not disclose the specific results of such
blood tests to the individual. The insurance company shall also
inform the individual on whom the blood test was performed that
the results of the blood test will be sent to the physician
designated by the individual at the time of application and that
such physician should be contacted for information regarding the
blood test results. If a physician was not designated at the time
of application, the insurance company shall request that the
individual name a physician to whom a copy of the blood test can
be sent.

(5) Any practicing or licensed physician, or person in
charge of a hospital or health care facility, who knows that a
patient has a medical condition specified by the Department of
Health as requiring special precautions by health care providers,
shall report this fact and the need for appropriate precautions to
any other institution or provider of health care services to whom
such patient is transferred or referred, according to regulations
established by the State Board of Health.

(6) Any practicing or licensed physician or person in charge
of a hospital, health care facility or laboratory who fails to
make the reports required under this section regarding Human
Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
(HIV/AIDS) or any Class 1 disease or condition as designated by
the State Board of Health shall be reported to the Board of
Health.
Medical Licensure, in the case of a physician, or to the applicable licensing agency in the case of institutions, and such failure shall be grounds for suspension of license.

(7) In accordance with regulations of the State Board of Health, every veterinarian, livestock owner, veterinary diagnostic laboratory director or other person having the care of animals shall report animals having or suspected of having any disease that may be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological or other toxins that might pose a substantial risk of a significant number of human or animal fatalities or incidents of permanent or long-term disability. The State Board of Health shall by regulation determine which diseases or other conditions shall be reportable.

(8) (a) In accordance with regulations of the State Board of Health, persons registered to dispense controlled substances under Section 41-29-101 et seq. shall report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological or other toxins that might pose a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Prescription-related events that suggest a report include, but are not limited to: an unusual increase in the number of prescriptions to treat fever, respiratory or gastrointestinal complaints; an unusual increase in the number of prescriptions for antibiotics; an unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory or gastrointestinal complaints; and any prescription that treats a disease that is relatively uncommon and has bioterrorism potential. The report shall be transmitted to the State Department of Health in a format prescribed by the
department and shall include as much of the following information as possible:

(i) Recipient’s name, when feasible to submit;
(ii) Recipient's identification number;
(iii) National Drug Code number of the substance dispensed;
(iv) Date of the dispensation;
(v) Quantity of the substance dispensed;
(vi) Prescriber's United States Drug Enforcement Administration registration number; and
(vii) Dispenser's registration number and location.

(b) The information collected under paragraph (a) of this subsection shall be confidential and shall not be open to the public. Access to the information shall be limited to:

(i) Bureau of Narcotics agents and special contract agents of the bureau retained under Section 41-29-112;
(ii) The United States Drug Enforcement Administration Diversion Group Supervisor; and
(iii) The executive director or chief investigator as designated by each board of the State Boards of Dental Examiners, Pharmacy, Medical Licensure, Nursing, and Veterinary Medicine; however, the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of his employing board.

(c) Any person authorized to dispense controlled substances as described in paragraph (a) of this subsection who fails to comply with this provision of law shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not to exceed One Thousand Dollars ($1,000.00) or imprisoned in the county jail for a period not to exceed six (6) months, or both.

(d) The State Department of Health shall have the authority to investigate any person required to comply with this
section and any pharmacy that, in the opinion of the department,
employs persons who have failed to comply with this subsection (8)
and may petition the chancery court of any county in which the
person is employed, or where the pharmacy may be located, for any
order or writ necessary to obtain compliance with the provisions
of this subsection.

(e) The State Board of Health shall have the authority
to adopt regulations that set out the types of conduct that must
be reported under the authority of this subsection (8).

(9) Any person other than a practicing or licensed
physician, or person in charge of a hospital or health care
facility, willfully failing to make the reports required under
this section shall be guilty of a misdemeanor and, upon
conviction, shall be punished by a fine of not more than Five
Hundred Dollars ($500.00) or by confinement in the county jail for
not more than thirty (30) days, or both.

(10) The provisions of this section are cumulative and
supplemental to any other provision of law, and a conviction or
penalty imposed under this section shall not preclude any other
action at law, proceedings for professional discipline or other
criminal proceedings.

(11) Notwithstanding any law of this state to the contrary,
the State Board of Health is authorized to establish the rules by
which exceptions may be made to the confidentiality provisions of
the laws of this state for the notification of third parties of an
individual's infection with any Class 1 or Class 2 disease, as
designated by the State Board of Health, when exposure is
indicated or there exists a threat to the public health and
welfare. All notifications authorized by this section shall be
within the rules established according to this subsection. All
persons who receive notification of the infectious condition of an
individual under this subsection and the rules established under
this subsection shall hold such information in the strictest of
confidence and privilege, shall not reveal the information to others, and shall take only those actions necessary to protect the health of the infected person or other persons where there is a foreseeable, real or probable risk of transmission of the disease.

(12) Each public or private correctional facility housing state offenders, federal offenders or offenders from any other jurisdiction shall require all offenders in the facility to be tested for tuberculosis and Human Immunodeficiency Virus (HIV) in conjunction with the rules and regulations of the State Department of Health. The reporting shall be according to procedures and shall include any information about the case that is required by the State Board of Health. In order to carry out the provisions of this section, the following shall apply:

(a) Any such public or private correctional facility may contract with the Mississippi Department of Corrections, the Mississippi State Department of Health, or other such appropriate state, federal or local entity for the inspection, monitoring or provision of any assistance necessary or desirable to maintain appropriate facilities for the purpose of identification, prevention, and treatment of communicable diseases and other conditions considered prejudicial to public health; and

(b) Any such public or private correctional facility shall grant representatives of the State Department of Health, in the discharge of its duties, access to all areas of the facility and to the offenders and staff at all times. The facility shall reimburse the State Department of Health for all costs incurred for the control of communicable diseases or other conditions prejudicial to public health in the facility and for the costs incurred for the control of communicable diseases or other conditions prejudicial to public health spreading from the facility, staff or inmates to other individuals or property in the county or state.
SECTION 5. Section 41-23-5, Mississippi Code of 1972, is amended as follows:

41-23-5. (1) The State Department of Health shall have the authority to investigate and control the causes of epidemic, infectious and other disease affecting the public health, including the authority to establish, maintain and enforce isolation and quarantine, and in pursuance thereof, to exercise such physical control over property and individuals as the department may find necessary for the protection of the public health.

(2) If the Governor declares an emergency on the grounds of a natural disaster arising out of an epidemic or pandemic, or man-made disaster arising out of an act of terrorism, notwithstanding any provision of law to the contrary, the State Department of Health shall have such authority as the State Health Officer deems proper and necessary to protect the public health, to investigate and certify the causes of any deaths that have occurred in any area described in the Governor’s declaration of emergency and may appoint private physicians to conduct those investigations or utilize the personnel or facilities of the Office of the State Medical Examiner in instances in which the State Health Officer deems that action appropriate.

SECTION 6. The following shall be codified as Section 41-39-55, Mississippi Code of 1972:

41-39-55. (1) If the Governor declares an emergency on the grounds of a natural disaster arising out of an epidemic or pandemic, or man-made disaster arising out of an act of terrorism, the State Department of Health shall direct coroners, medical examiners and funeral directors, for such period as the state of emergency exists, to exercise, in addition to existing powers, the following powers regarding the safe disposal of human remains:

(a) To take possession or control of any human remains that cannot be safely handled otherwise;
(b) To order the disposal of human remains of a person who has died of an infectious disease through burial or cremation within twenty-four (24) hours after death;

(c) To require any business or facility authorized to embalm, bury, cremate, inter, disinter, transport and dispose of human remains under the laws of this state to accept any human remains or provide the use of its business or facility if these actions are reasonable and necessary for emergency response. When necessary during the period of time of the public health emergency, the department must coordinate with the business or facility on the management or supervision of the business or facility; and

(d) To procure, by order or otherwise, any business or facility authorized to embalm, bury, cremate, inter, disinter, transport and dispose of human remains under the laws of this state as may be reasonable and necessary for emergency response, with the right to take immediate possession thereof.

(2) Where possible, existing provisions set forth in the State Operations Plan for the safe disposal of human remains must be used in a public health emergency. Where the State Operations Plan is not sufficient to handle the safe disposal of human remains for a public health emergency, the department, in coordination with coroners, medical examiners and funeral directors, must adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary for emergency response. These measures may include, but are not limited to, the embalming, burial, cremation, interment, disinterment, transportation and disposal of human remains.

(3) All human remains before disposal must be clearly labeled with all available information to identify the decedent and the circumstances of death. Any human remains of a deceased person with an infectious disease must have an external, clearly
visible tag indicating that the human remains are infected and, if known, the infectious disease.

(4) Every person in charge of disposing of any human remains must maintain a written record of each set of human remains and all available information to identify the decedent and the circumstances of death and disposal. If the human remains cannot be identified, before disposal, a qualified person must, to the extent possible, take fingerprints and one or more photographs of the human remains, and collect a DNA specimen. All information gathered under this subsection must be promptly forwarded to the department. Identification must be handled by the agencies that have laboratories suitable for DNA identification.

(5) The State Board of Health shall have the authority to issue such regulations as are reasonably necessary to carry out the purposes of this section.

SECTION 7. This act shall take effect and be in force from and after July 1, 2007.