

By: Representatives Aguirre, Roberson

To: Public Health and Human
Services

HOUSE BILL NO. 1491

1 AN ACT TO CREATE THE VOLUNTEER HEALTH CARE SERVICES ACT; TO
2 AUTHORIZE CERTAIN LICENSED MEDICAL PROFESSIONALS WHO ARE IN GOOD
3 STANDING TO PROVIDE VOLUNTARY HEALTH CARE SERVICES; TO PROVIDE
4 CIVIL IMMUNITY FOR THOSE SERVICES; TO BRING FORWARD SECTION
5 73-25-19, MISSISSIPPI CODE OF 1972, WHICH LIMITS THE PRACTICE OF
6 MEDICINE IN THIS STATE BY NONRESIDENT PHYSICIANS WHO ARE NOT
7 LICENSED TO PRACTICE MEDICINE IN THIS STATE, FOR THE PURPOSES OF
8 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 73-25-38, MISSISSIPPI
9 CODE OF 1972, WHICH PROVIDES IMMUNITY TO MEDICAL PROFESSIONALS WHO
10 VOLUNTARILY PROVIDE HEALTH CARE, FOR THE PURPOSES OF POSSIBLE
11 AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Sections 1 through 6 of this act shall be known
14 and may be cited as the "Volunteer Health Care Services Act."

15 **SECTION 2.** (1) The Legislature finds that:

16 (a) Access to high quality health care services is a
17 concern of all persons;

18 (b) Access to such services is severely limited for
19 some residents of this state, particularly those who reside in
20 remote rural areas or in the inner city;



21 (c) Physicians and other health care professionals have
22 traditionally worked to assure broad access to health care
23 services; and

24 (d) Many health care providers from Mississippi and
25 elsewhere are willing to volunteer their services to address the
26 health care needs of Mississippians who may otherwise not be able
27 to obtain such services.

28 (2) The Legislature further finds that it is the public
29 policy of this state to encourage and facilitate voluntary
30 provision of health care services.

31 **SECTION 3.** For the purposes of Sections 1 through 7 of this
32 act, the following words and phrases shall have the meanings
33 ascribed in this section unless the context clearly indicates
34 otherwise:

35 (a) "Department" means the State Department of Health.

36 (b) "Free clinic" means a not-for-profit, out-patient,
37 nonhospital facility in which a health care provider engages in
38 the voluntary provision of health care services to patients
39 without charge to the recipient of the services or to a third
40 party.

41 (c) "Health care provider" means any physician, dentist
42 or optometrist.

43 (d) "Licensed health care provider" means any health
44 care provider holding a current license or certificate issued
45 under:



(i) The applicable licensing law of this state for the provider; or

(ii) A comparable provision of the law of another state, territory, district or possession of the United States.

(e) "Regularly practice" means to practice for more than twenty (20) days within any ninety-day period.

(f) "Sponsoring organization" means any organization that organizes or arranges for the voluntary provision of health care services and that registers with the department as a sponsoring organization in accordance with Section 5 of this act and charges recipients based on one (1) of the following criteria:

(i) On a sliding scale according to income;

(ii) A fee at the time of service of no more than Fifty Dollars (\$50.00); or

(iii) No fee to the recipient.

(g) "Voluntary provision of health care services" means the providing of professional health care services by the health care provider either without charge to the recipient of the services or to a third party, or recipients are charged on a sliding scale according to income. Nothing shall preclude a health care provider from collecting the charges described in subparagraph (f)(ii) on behalf of the sponsoring organization as long as the health care provider retains none of the payment and forwards all collections to the sponsoring organization.



SECTION 4.

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the applicable licensing laws of this state is necessary for the voluntary provision of health care services by any person who:

(a) Is a licensed health care provider; or

(b) Lawfully practices under an exception to the licensure or certification requirements of any state, territory, district or possession of the United States, provided that the person does not and will not regularly practice in Mississippi.

(2) Subsection (1) of this section does not apply to a person whose license or certificate is suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. In addition, subsection (1) of this section does not apply to a licensed health care provider who renders services outside the scope of practice authorized by the health care provider's licensure, certification or exception to that licensure or certification.

SECTION 5.

(1) (a) Before providing volunteer medical services in this state, a sponsoring organization shall register with the department by submitting a registration fee of Fifty Dollars (\$50.00) and filing a registration form. The registration fee shall not apply to any sponsoring organization when providing volunteer health care services in cases of natural or man-made disasters. The registration form shall contain:

(i) The name of the sponsoring organization;



(ii) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring organization;

(iii) The address, including street, city, state, zip code and county, of the sponsoring organization's principal office address and the same address information for each principal or official listed in subparagraph (ii) of this paragraph (a);

(iv) Telephone numbers for the principal office of the sponsoring agency and each principal or official listed in subparagraph (ii) of this paragraph (a); and

(v) Any additional information required by the department.

(b) Upon any change in the information required under paragraph (a) of this subsection (1), the sponsoring organization shall notify the department in writing of such change within thirty (30) days of the change.

(2) The sponsoring organization shall file a quarterly voluntary services report with the department which lists all licensed health care providers who provided voluntary health care services during the preceding quarter. The sponsoring organization shall maintain on file for five (5) years following the date of service additional information, including the date, place and type of services provided.

(3) The sponsoring organization shall maintain a list of health care providers associated with its provision of voluntary



health care services. For each health care provider, the organization shall maintain a copy of a current license, certificate or statement of exemption from licensure or certification or, in the event that the health care provider is currently licensed in the state of Mississippi, a copy of the health care provider's license verification obtained from a state-sponsored website. The sponsoring organization shall maintain such records for a period of at least five (5) years following the provision of health care services and shall furnish the records to the department upon request of the department.

(4) Compliance with subsections (1) and (2) of this section shall be prima facie evidence that the sponsoring organization exercised due care in its selection of health care providers.

(5) The department may revoke the registration of any sponsoring organization that fails to comply with the requirements of this section.

SECTION 6. No contract of professional liability insurance covering a health care provider in this state, issued or renewed on or after July 1, 2019, shall exclude coverage to any health care provider who engages in the voluntary provision of health care services, provided that the sponsoring organization and the health care provider comply with the requirements of Sections 1 through 5 of this act.

SECTION 7. Section 73-25-19, Mississippi Code of 1972, is brought forward as follows:



73-25-19. Nonresident physicians not holding license from the state shall not be permitted to practice medicine under any circumstances after remaining in the state for five (5) days, except when called in consultation by a licensed physician residing in this state. This section shall not apply to any nonresident physician who holds a temporary license to practice medicine at a youth camp issued under the provisions of Section 75-74-8 and Section 73-25-17.

SECTION 8. Section 73-25-38, Mississippi Code of 1972, is brought forward as follows:

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



immune as provided in this subsection. The immunity from liability granted by this subsection also shall extend to actions arising from a church-operated outpatient medical clinic that exists solely for the purpose of providing charitable medical services to persons who are unable to pay for such services, provided that the outpatient clinic receives less than Forty Thousand Dollars (\$40,000.00) annually in patient payments.

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

(3) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 73-25-18 without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under



195 this subsection to apply, there must be a written or oral
196 agreement for the physician to provide a voluntary noncompensated
197 medical service before the rendering of the service by the
198 physician.

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

210 **SECTION 9.** This act shall take effect and be in force from
211 and after July 1, 2019.

