

By: Representative McLean

To: Public Health and Human  
Services

## HOUSE BILL NO. 863

1 AN ACT TO AUTHORIZE LICENSED HEALTH CARE PROVIDERS TO PROVIDE  
2 HEALTH CARE SERVICES FOR PRIMARY CARE, MENTAL HEALTH OR DENTAL  
3 CARE THROUGH THE USE OF TELEMEDICINE TO MISSISSIPPI RESIDENTS THAT  
4 LIVE IN AN AREA DESIGNATED A HEALTH PROFESSIONAL SHORTAGE AREA; TO  
5 PROVIDE THAT THIS AUTHORITY APPLIES TO HEALTH CARE PROVIDERS  
6 LICENSED UNDER A COMPARABLE PROVISION OF THE LAW OF ANOTHER STATE,  
7 TERRITORY, DISTRICT OR POSSESSION OF THE UNITED STATES; TO PROVIDE  
8 THAT LICENSED HEALTH CARE PROVIDERS WHO PROVIDE HEALTH CARE  
9 SERVICES TO A PERSON UNDER THE AUTHORITY OF THIS ACT SHALL BE  
10 IMMUNE FROM LIABILITY FOR ANY CIVIL ACTION ARISING OUT OF THE  
11 PROVISION OF SUCH HEALTH CARE SERVICES IN GOOD FAITH ON A  
12 CHARITABLE BASIS; TO AMEND SECTIONS 41-127-1, 73-25-19 AND  
13 73-25-34, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
14 PROVISIONS; TO BRING FORWARD SECTION 73-25-38, MISSISSIPPI CODE OF  
15 1972, WHICH PROVIDES IMMUNITY FROM LIABILITY FOR PROVIDING CERTAIN  
16 HEALTH CARE SERVICES IN GOOD FAITH, FOR THE PURPOSES OF POSSIBLE  
17 AMENDMENT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) Notwithstanding any provision of law to the  
20 contrary, a licensed health care provider may provide health care  
21 services for primary care, mental health or dental care through  
22 the use of interactive audio, video or other electronic media to  
23 Mississippi residents that live in an area designated a health  
24 professional shortage area.



25           (a) This section does not apply to a health care  
26 provider whose license or certificate is suspended or revoked  
27 pursuant to disciplinary proceedings in any jurisdiction, but does  
28 apply to a health care provider licensed under a comparable  
29 provision of the law of another state, territory, district or  
30 possession of the United States.

31           (b) This section does not apply to a licensed health  
32 care provider who renders services outside the scope of practice  
33 authorized by the health care provider's licensure, certification  
34 or exception to that licensure or certification.

35           (c) A licensed health care provider who provides health  
36 care services to a person under the authority of this section  
37 shall be immune from liability for any civil action arising out of  
38 the provision of such health care services in good faith on a  
39 charitable basis, as provided in Section 73-25-38(1).

40           **SECTION 2.** Section 41-127-1, Mississippi Code of 1972, is  
41 amended as follows:

42           41-127-1. Subject to the limitations of the license under  
43 which the individual is practicing, a health care practitioner  
44 licensed in this state, or a nonresident health care practitioner  
45 who is practicing under the authority provided in Section 1 of  
46 this act, may prescribe, dispense, or administer drugs or medical  
47 supplies, or otherwise provide treatment recommendations to a  
48 patient after having performed an appropriate examination of the  
49 patient either in person or by the use of instrumentation and



50 diagnostic equipment through which images and medical records may  
51 be transmitted electronically. Treatment recommendations made via  
52 electronic means, including issuing a prescription via electronic  
53 means, shall be held to the same standards of appropriate practice  
54 as those in traditional provider-patient settings.

55 **SECTION 3.** Section 73-25-19, Mississippi Code of 1972, is  
56 amended as follows:

57 73-25-19. Nonresident physicians not holding a license from  
58 the state shall not be permitted to practice medicine under any  
59 circumstances after remaining in the state for five (5) days,  
60 except when called in consultation by a licensed physician  
61 residing in this state or except as authorized under Sections  
62 73-25-121 through 73-25-127. This section shall not apply to:

63 (a) Any nonresident physician who holds a temporary  
64 license to practice medicine at a youth camp issued under the  
65 provisions of Section 75-74-8 and Section 73-25-17; or

66 (b) A nonresident physician who is practicing medicine  
67 under the authority provided in Section 1 of this act.

68 **SECTION 4.** Section 73-25-34, Mississippi Code of 1972, is  
69 amended as follows:

70 73-25-34. (1) For the purposes of this section,  
71 telemedicine, or the practice of medicine across state lines,  
72 shall be defined to include any one or both of the following:

73 (a) Rendering of a medical opinion concerning diagnosis  
74 or treatment of a patient within this state by a physician located



outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent; or

(b) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent.

(2) Except as hereinafter provided, no person shall engage in the practice of medicine across state lines (telemedicine) in this state, hold himself out as qualified to do the same, or use any title, word or abbreviation to indicate to or induce others to believe that he is duly licensed to practice medicine across state lines in this state unless he has first obtained a license to do so from the State Board of Medical Licensure and has met all educational and licensure requirements as determined by the State Board of Medical Licensure.

(3) The requirement of licensure as set forth in subsection (2) \* \* \* of this section shall not be required where the evaluation, treatment and/or the medical opinion to be rendered by a physician outside this state (a) is requested by a physician duly licensed to practice medicine in this state, and (b) the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated. In addition, the requirement of licensure as set forth in subsection



(2) of this section shall not be required for a nonresident physician who is practicing medicine under the authority provided in Section 1 of this act.

**SECTION 5.** 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  
this subsection to apply, there must be a written or oral  
agreement for the physician to provide a voluntary noncompensated  
medical service before the rendering of the service by the  
physician.



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

160           **SECTION 6.** This act shall take effect and be in force from  
161 and after July 1, 2021.

