

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2106

1 AN ACT TO PROHIBIT ANY PHYSICIAN, NURSE OR OTHER EMPLOYEE OF
2 THE STATE DEPARTMENT OF HEALTH FROM PERFORMING ANY SURGICAL OR
3 MEDICAL TREATMENT OR PROCEDURE OR CONSULT WITH OR PRESCRIBE
4 MEDICATION FOR A MINOR WITHOUT OBTAINING THE WRITTEN CONSENT OF
5 THE PARENT OR GUARDIAN; TO PROVIDE EXCEPTIONS AND PENALTIES; AND
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) As used in this section:

9 (a) "Minor" means any person who is fifteen (15) years
10 of age or less.

11 (b) "Guardian" means any person standing in loco
12 parentis of the minor, whether formally serving or not, including
13 any guardian, conservator or custodian.

14 (c) "Emergency" means a situation wherein, incompetent
15 medical judgment, the proposed surgical or medical treatment or
16 procedures are immediately or imminently necessary and any delay
17 occasioned by an attempt to obtain a consent would reasonably
18 jeopardize the life, health or limb of the minor affected, or
19 would reasonably result in disfigurement or impairment of
20 faculties of the minor.

21 (d) "Consult" means a person-to-person instructional
22 conversation with the minor in a confidential setting, and not a
23 group instructional setting.

24 (2) No physician, nurse or other employee of the State
25 Department of Health shall perform any surgical or medical
26 treatment or procedures on, or consult with or prescribe
27 medication for, a minor without obtaining the written consent of
28 the parent or guardian of said minor.

29 (3) The prohibition in subsection (2) shall not apply if:

30 (a) The minor is married;
31 (b) An emergency exists;
32 (c) The physician, nurse or employee of the State
33 Department of Health is rendering medical care to a minor for
34 treatment of a venereal disease as provided in Section 41-41-13,
35 Mississippi Code of 1972;

36 (d) The minor is voluntarily donating blood;

37 (e) The physician, nurse or employee of the State
38 Department of Health is conducting tests for infectious diseases
39 as authorized by law; or

40 (f) The minor has been ordered by a competent court to
41 undergo the treatment, procedure, prescription or consultation.

42 (4) Any person found to have violated the provisions of this
43 section shall not be entitled to any civil liability protections
44 afforded by the Mississippi Tort Claims Act, Section 11-46-1 et
45 seq., and the State of Mississippi shall not be liable for any
46 judgment rendered, or any legal fees or expenses incurred, as a
47 result of that person's malpractice while violating the provisions
48 of this section.

49 **SECTION 2.** This act shall take effect and be in force from
50 and after July 1, 2005.