

By: Senator(s) Nunnelee

To: Public Health and
Welfare

SENATE BILL NO. 2610

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 SUCH 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" is an infectious disease that
48 can be transmitted from person to person, animal to person, or
49 insect to person.

50 (h) "Coroners, medical examiners and funeral directors"
51 have the same meanings as provided in general law.

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

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

64 (k) "Emergency" means an event or condition that
65 constitutes an emergency as defined by the declaration of
66 emergency by the Governor under Section 33-15-11(b)(6) and/or

67 (c)(1), Mississippi Code of 1972; a declared public health
68 emergency, or other emergency declaration that may require the
69 provision of health care or veterinary services.

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

73 (m) "Emergency Management Assistance Compact" refers to
74 the mutual aid agreement ratified by Congress and signed into law
75 in 1996 as Public Law 104-321, and subsequently enacted by this
76 state and codified in Section 45-18-3, Mississippi Code of 1972.

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

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

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

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

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

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

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

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

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

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

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

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

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

164 (y) "Medical Reserve Corps" means a local unit
165 consisting of trained and equipped emergency response, public

166 health, and medical personnel formed pursuant to Section 2801 of
167 the Public Health Security and Bioterrorism Preparedness and
168 Response Act of 2002, Public Law 107-188.

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

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

185 (bb) "Public health emergency" means the occurrence or
186 imminent risk of a qualifying health condition, and shall
187 specifically include a hurricane, tornado or other declared
188 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" is the chancery court for the county
230 in which the isolation or quarantine is to occur or to the circuit

231 court for the county in which a public health emergency has been
232 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
262 pursuant to this section are not subject to the requirements of
263 Section 25-43-3, Mississippi Code of 1972.

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 prior to or during an
277 emergency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

351 (3) The department may modify or restrict the health care or
352 veterinary care services that a volunteer healthcare practitioner
353 may provide pursuant to this act. An order or directive modifying
354 the services a practitioner may provide pursuant to this
355 subsection is not subject to the requirements of Section 25-43-3,
356 Mississippi Code of 1972

357 (4) A host entity may restrict the health care or veterinary
358 services that a volunteer healthcare practitioner may provide
359 pursuant to this act.

360 (5) A volunteer healthcare practitioner shall not be found
361 to be engaged in unauthorized practice unless the practitioner had
362 reason to know of any limitations, modifications or restrictions

363 under subsection (1), (3) or (4) or that a similarly licensed
364 practitioner in this state would not be permitted to provide the
365 services. For the purposes of this subsection, a volunteer
366 healthcare practitioner has reason to know if the practitioner (a)
367 has actual knowledge of a modification or restriction, or (b) from
368 all the facts and circumstances known to the practitioner at the
369 time in question, a reasonable person would conclude that a
370 modification or restriction exists.

371 (6) A licensing board or other disciplinary authority in
372 this state:

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

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

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

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

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

391 Subject to subsection (2), the prospective, concurrent, or
392 retroactive payment of monetary or other compensation to a
393 healthcare practitioner by any person for the provision of health
394 care or veterinary services while an emergency declaration is in

395 effect does not preclude the practitioner from being a volunteer
396 healthcare practitioner under this act.

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

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

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

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

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

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

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

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

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

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

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

460 (c) Any person appointed pursuant to this section who
461 in good faith performs the assigned duties is not liable for any
462 civil damages for any personal injury as the result of any act or
463 omission, except acts or omissions amounting to gross negligence
464 or willful or wanton misconduct.

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

467 73-9-1. Every person who desires to practice dentistry or
468 dental hygiene in this state must obtain a license to do so as
469 hereinafter provided; but this section shall not apply to dentists
470 or dental hygienists now holding permanent licenses to practice
471 provided the same have been recorded as required by law.

472 Provided, however, that this section shall not be construed to
473 prohibit a licensed volunteer dentist from acting within his scope
474 of practice during an emergency declaration under the conditions
475 of the Uniform Emergency Volunteer Healthcare Practitioners Act.

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

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

493 licensed volunteer dietitian from acting within his scope of
494 practice during an emergency declaration under the conditions of
495 the Uniform Emergency Volunteer Healthcare Practitioners Act.

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

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

506 (a) To practice or offer to practice as a registered
507 nurse or a licensed practical nurse;

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

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

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

519 73-19-3. It shall not be lawful for any person in this state
520 to engage in the practice of optometry or to hold himself out as a
521 practitioner of optometry, or attempt to determine by an
522 examination of the eyes the kind of glasses needed by any person,
523 or to hold himself out as able to examine the eyes of any person
524 for the purpose of fitting the same with glasses, excepting those
525 hereinafter exempted, unless he has first fulfilled the

526 requirements of this chapter and has received a certificate of
527 licensure from the State Board of Optometry created by this
528 chapter, nor shall it be lawful for any person in this state to
529 represent that he is the lawful holder of a certificate of
530 licensure such as provided for in this chapter, when in fact he is
531 not such lawful holder or to impersonate any licensed practitioner
532 of optometry, or to fail to register the certificate as provided
533 by law. Provided, however, that this section shall not be
534 construed to prohibit a licensed volunteer optometrist from acting
535 within his scope of practice during an emergency declaration under
536 the conditions of the Uniform Emergency Volunteer Healthcare
537 Practitioners Act.

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

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

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

558 the conditions of the Uniform Emergency Volunteer Healthcare
559 Practitioners Act.

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

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

570 (5) All persons licensed to practice pharmacy prior to July
571 1, 1991, by the State Board of Pharmacy under Section 73-21-89
572 shall continue to be licensed under the provisions of Section
573 73-21-91.

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

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

591 prosthetics by any person who has engaged in the practice of
592 orthotics or prosthetics for a period of twenty-five (25) or more
593 consecutive years before July 1, 1991, and is engaged in the
594 practice of orthotics or prosthetics on July 1, 1991.

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

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

609 (4) Any person violating any provision of this section shall
610 be guilty of a misdemeanor and, upon conviction thereof, shall be
611 fined not less than Two Hundred Dollars (\$200.00) nor more than
612 One Thousand Dollars (\$1,000.00), and may be imprisoned in the
613 county jail for not more than six (6) months. In addition, any
614 person sustaining damages as a result of a violation of any
615 provision of this section may recover the amount of those damages,
616 plus a civil penalty of One Thousand Five Hundred Dollars
617 (\$1,500.00) per incident, in any court of competent jurisdiction.

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

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

625 73-23-35. (1) It shall be unlawful for any person,
626 corporation or association to, in any manner, represent himself or
627 itself as a physical therapist, a physical therapist assistant or
628 someone who provides physical therapy services, or use in
629 connection with his or its name the words or letters
630 physiotherapist, registered physical therapist, R.P.T., licensed
631 physical therapist assistant, L.P.T.A., or any other letters,
632 words, abbreviations or insignia, indicating or implying that he
633 or it is a physical therapist, a physical therapist assistant or
634 provides physical therapy services, without a valid existing
635 license as a physical therapist or as a physical therapist
636 assistant, as the case may be, issued to him or it pursuant to
637 this chapter. It shall be unlawful to employ an unlicensed
638 physical therapist or physical therapist assistant to provide
639 physical therapy services.

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

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

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

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

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

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

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

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

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

688 (5) Nothing in this section shall restrict the Division of
689 Medicaid from setting rules and regulations regarding the coverage
690 of physical therapy services and nothing in this section shall
691 amend or change the Division of Medicaid's schedule of benefits,
692 exclusions and/or limitations related to physical therapy services
693 as determined by state or federal regulations and state and
694 federal law.

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

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

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

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

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

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

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

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

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

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

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

754 (5) Applicants for licensure who meet all licensure
755 requirements except for the master's degree may be granted a
756 temporary license by the board so long as they can show proof of
757 enrollment in a master's program that will, when completed, meet
758 the master's degree requirement. The temporary license will be
759 valid for no longer than one (1) year, and may not be renewed.
760 This subsection shall take effect and be in force from and after
761 March 9, 2006. This subsection shall stand repealed on July 1,
762 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

816 (k) Private employment counselors;

817 (1) Any nonresident temporarily employed in this state
818 to render counseling services for not more than thirty (30) days
819 in any year, if in the opinion of the board the person would
820 qualify for a license under this chapter and if the person holds
821 any license required for counselors in his home state or country;
822 and

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

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

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

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

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

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

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

850 (d) The services and activities of members of other
851 professional groups licensed or certified by the State of
852 Mississippi who perform work of a psychological nature consistent
853 with their training, work experience history, and with any code of
854 ethics of their respective professions, provided they do not hold
855 themselves out to be psychologists. The practice of psychology as
856 defined by this act overlaps with the activities of other
857 professional groups and it is not the intent of this act to
858 regulate the activities of these professional groups.

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

865 (3) Lecturers from any school or college may utilize their
866 academic or research title when invited to present lectures to
867 institutions or organizations.

868 (4) A licensed volunteer psychologist from acting within his
869 scope of practice during an emergency declaration under the
870 conditions of the Uniform Emergency Volunteer Healthcare
871 Practitioners Act.

872 This section shall stand repealed from and after July 1,
873 2011.

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

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

882 declaration under the conditions of the Uniform Emergency
883 Volunteer Healthcare Practitioners Act.

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

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

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

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

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

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

915 conditions of the Uniform Emergency Volunteer Healthcare
916 Practitioners Act.

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

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

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

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

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

948 43-11-5. No person, acting severally or jointly with any
949 other person, shall establish, conduct, or maintain an institution
950 for the aged or infirm in this state without a license under this
951 chapter. Provided, however, that this section shall not be
952 construed to prohibit a licensed nursing home or a volunteer
953 healthcare practitioner from acting within his scope of practice
954 during an emergency declaration under the conditions of the
955 Uniform Emergency Volunteer Healthcare Practitioners Act.

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