STATE OF MISSISSIPPI

Office of the Governor

EXECUTIVE ORDER NO. 1471

WHEREAS, on March 14, 2020, pursuant to the Constitution of the State of Mississippi and Miss. Code Ann. § 33-15-11(b)(17), I issued a Proclamation declaring that a State of Emergency exists in the State of Mississippi as a result of the outbreak of COVID-19; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19 beginning on January 27, 2020, on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic, and on March 13, 2020, the President of the United States declared a nationwide state of emergency due to the coronavirus COVID-19 pandemic; and

WHEREAS, the risk of spread of COVID-19 within Mississippi continues to constitute a public emergency that may result in substantial injury or harm to life, health, and property within Mississippi; and

WHEREAS, as of April 9, 2020, there were 2,469 positive cases of COVID-19 in the State of Mississippi, with 82 of those cases having resulted in death; and

WHEREAS, despite social distancing measures and shelter in place orders, a surge of COVID-19 cases has been projected over the next 3-5 weeks requiring preservation of and immediate access to vital healthcare resources, including hospital facilities, medical personnel, medical equipment and personal protective equipment (PPE); and

WHEREAS, for the preservation of public health and safety throughout the entire State of Mississippi, and to ensure that our healthcare delivery system is capable of serving those who are sick, it is necessary to take additional measures to respond to the COVID-19 emergency; and

WHEREAS, the scope of this unprecedented pandemic is global and taxing resources and providers throughout the United States healthcare infrastructure, *Pandemic is putting strain on US hospitals,* CLARION LEDGER, April 7, 2020, at 3A, and the Mississippi response to the COVID-19 outbreak is beyond local control requiring additional measures including immediate collaboration and cooperation among public and private healthcare facilities and the physicians, nurses, clinical staff and other office employees and agents of such facilities; and

WHEREAS, it is essential and urgent to ensure that Mississippi has adequate bed capacity, equipment, supplies, and healthcare providers to treat patients afflicted with COVID-19, as well as patients afflicted with other non-COVID conditions; and

WHEREAS, it is essential and urgent to ensure that the healthcare workforce is equipped and able to assist with efforts to cope with the unprecedented need in response to COVID-19, particularly as some frontline healthcare workers are either infected by COVID-19 or otherwise exposed to the virus, forcing them to quarantine away from healthcare facilities and patients; and

WHEREAS, on March 24, 2020, Department of Health and Human Services Secretary Alex Azar sent a letter to all governors with recommendations to expand the healthcare workforce capacity to respond to the pandemic, including allowing professionals to practice in all settings of care and allowing physicians to supervise a greater number of other health professionals including by remote means; and

WHEREAS, under Mississippi's emergency pandemic response plan, the Mississippi State Department of Health (MSDH) is designated as the coordinating agency for response operations; and

WHEREAS, a surge of COVID-19 cases is anticipated in the immediate future creating a compelling state interest to adopt additional measures to rapidly expand Mississippi's healthcare system's capacity to treat those diagnosed with COVID-19, many of whom may require emergency or intensive care; and

WHEREAS, there is a compelling need to engage Healthcare Facilities and Healthcare Professionals including physicians, nurses, and other clinical staff who currently hold unrestricted licenses to practice

and are able to supplement the existing health workforce to provide direct patient care, telemedicine and other supervisory and support services to other frontline providers treating COVID-19; and

WHEREAS, there is a compelling need to maximize participation of Healthcare Professionals and Healthcare Facilities in treating COVID-19 patients to ensure that Mississippians have access to treatment when needed; and

WHEREAS, in light of the emergent need to expand the capacity of Healthcare Facilities to support and contribute to the statewide effort to combat COVID-19, it is necessary for Healthcare Professionals and Healthcare Facilities to provide services and acts in support of the State's COVID-19 response that they would not provide in the ordinary course of their practice/business; and

WHEREAS, although Mississippi law provides some protections for Healthcare Professionals and Healthcare Facilities assisting in the effort to combat COVID-19, it is necessary to provide additional protections against liability in order to achieve the State's compelling interest to rapidly expand the capacity of its healthcare system to provide care during the COVID-19 pandemic; and

WHEREAS, eliminating obstacles or barriers to the provision of healthcare services and supplies during the anticipated surge in COVID-19 cases is necessary to ensure Mississippi's healthcare system has adequate capacity to provide care to all who need it.

NOW, THEREFORE, I, Tate Reeves, Governor of the State of Mississippi, by the authority vested in me by the Constitution and laws of the State of Mississippi, do hereby order and direct as follows:

I. Duration: This Executive Order shall be effective from and after execution and shall remain in full force and effect until 11:59 p.m. on May 15, 2020, unless it is modified, amended, rescinded, or superseded.

II. For purposes of this Executive Order, the following terms are defined as set forth below:

a. "Healthcare Facilities" means (a) licensed or state approved hospitals, clinics, nursing homes, mental health centers, field hospitals or (b) other facilities designated by MSDH or Mississippi Emergency Management Agency (MEMA) for temporary use for the purposes of providing healthcare services in support of the State's COVID-19 response.

b. "Healthcare Facility" is the singular form of the plural "Healthcare Facilities."

c. "Healthcare Professional" means an individual who is licensed, registered, permitted, or certified in any state in the United States to provide health care services, whether paid or unpaid, or any volunteer approved by MSDH or MEMA who

i. is providing health care services at a Healthcare Facility in response to the COVID-19 outbreak and is authorized to do so; or

ii. is working under the direction of MEMA or MSDH in response to the March 14, 2020 Disaster Proclamation and as thereafter may be amended.

III. Pursuant to the Mississippi Emergency Management Act including but not limited to Miss. Code. Ann. §§ 33-15-11(c)(1) and 33-15-11(c)(4), notwithstanding any provision of the Mississippi Code Annotated, or any associated regulations, rules, policies, or procedures, any Healthcare Professional or Healthcare Facility, absent a showing of malice, reckless disregard or willful misconduct, shall be immune from suit for civil liability for any injury or death alleged to have been sustained because of the Healthcare Professional's or Healthcare Facility's acts or omissions while providing healthcare services including, but not limited to, screening, assessing, diagnosing, treating patients for COVID-19 or otherwise acting in support of the State's COVID-19 response, including but not limited to acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that renders the Healthcare Professional or Healthcare Facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic. Such immunity shall not extend to acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim pursuant to 31 U.S.C. §3729 *et seq.*

IV. Nothing in this Executive Order shall be construed to preempt, remove or limit any applicable defense, including but not limited to immunity from civil liability available to any Healthcare Professional or Healthcare Facility conferred by any provision of the Mississippi Code Annotated or other law.

V. Any provision of the Mississippi Code Annotated, rule, regulation or other law inconsistent with the limitation of liability provided by this Executive Order is suspended.

VI. That due to the urgent need to maintain an adequate workforce of Healthcare Professionals in Mississippi's Healthcare Facilities where they are needed, the credentialing and privileging procedures provided by law and those in hospital or medical staff bylaws, rules, regulations and policies may unnecessarily impede the ability of the healthcare workforce to respond to the COVID-19 outbreak. Accordingly, pursuant to Miss. Code Ann. §§ 33-15-11(c)(1) and 33-15-31, the MSDH is authorized and empowered to make, amend, and rescind such orders, rules, and regulations that it deems necessary for Healthcare Professionals to provide healthcare services in Healthcare Facilities. Healthcare Facilities making decisions to grant or deny privileges to Healthcare Professionals pursuant to such MSDH orders, rules and/or regulations are subject to immunity granted in Paragraph III of this Executive Order.

VII. That due to the urgent need to maintain an adequate workforce of Healthcare Professionals in Mississippi's Healthcare Facilities where they are needed, pursuant to Miss. Code Ann. § 33-15-31, the Mississippi State Board of Nursing is authorized and empowered to make, amend, and rescind such orders, rules, and regulations that it deems necessary for Healthcare Professionals to provide health care services in Healthcare Facilities in response to the COVID-19 outbreak.

VIII. That due to urgent need to maintain an adequate workforce of Healthcare Professionals in Mississippi's Healthcare Facilities where they are needed, pursuant to Miss. Code Ann. § 33-15-31, the Mississippi State Board of Medical Licensure is authorized and empowered to make, amend, and rescind such orders, rules, and regulations that it deems necessary for Healthcare Professionals to provide health care services in Healthcare Facilities in response to the COVID-19 outbreak.

IX. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

X. This Executive Order shall remain in effect and in full force until 11:59 p.m. on May 15, 2020, unless it is modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 10TH day of April, in the year of our Lord, two thousand and twenty, and of the Independence of the United States of America, the two hundred and forty-fourth.

TATE REEVES
GOVERNOR

BY THE GOVERNOR

MICHAEL WATSON
SECRETARY OF STATE