

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2727

1 AN ACT TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE REPEALER ON THE AUTHORITY OF THE STATE BOARD OF HEALTH
3 TO IMPOSE AN ADMINISTRATIVE PENALTY ON RESTAURANT ESTABLISHMENTS
4 OPERATING WITHOUT A PERMIT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-3-15, Mississippi Code of 1972, is
7 amended as follows:

8 41-3-15. (1) There shall be a State Department of Health
9 which shall be organized into such bureaus and divisions as are
10 considered necessary by the executive officer, and shall be
11 assigned appropriate functions as are required of the State Board
12 of Health by law, subject to the approval of the board.

13 (2) The State Board of Health shall have the authority to
14 establish an Office of Rural Health within the department. The
15 duties and responsibilities of this office shall include the
16 following:

17 (a) To collect and evaluate data on rural health
18 conditions and needs;

19 (b) To engage in policy analysis, policy development
20 and economic impact studies with regard to rural health issues;

21 (c) To develop and implement plans and provide
22 technical assistance to enable community health systems to respond
23 to various changes in their circumstances;

24 (d) To plan and assist in professional recruitment and
25 retention of medical professionals and assistants; and

26 (e) To establish information clearinghouses to improve
27 access to and sharing of rural health care information.

28 (3) The State Board of Health shall have general supervision
29 of the health interests of the people of the state and to exercise
30 the rights, powers and duties of those acts which it is authorized
31 by law to enforce.

32 (4) The State Board of Health shall have authority:

33 (a) To make investigations and inquiries with respect
34 to the causes of disease and death, and to investigate the effect
35 of environment, including conditions of employment and other
36 conditions which may affect health, and to make such other
37 investigations as it may deem necessary for the preservation and
38 improvement of health.

39 (b) To make such sanitary investigations as it may,
40 from time to time, deem necessary for the protection and
41 improvement of health and to investigate nuisance questions which
42 affect the security of life and health within the state.

43 (c) To direct and control sanitary and quarantine
44 measures for dealing with all diseases within the state possible
45 to suppress same and prevent their spread.

46 (d) To obtain, collect and preserve such information
47 relative to mortality, morbidity, disease and health as may be
48 useful in the discharge of its duties or may contribute to the
49 prevention of disease or the promotion of health in this state.

50 (e) To enter into contracts or agreements with any
51 other state or federal agency, or with any private person,
52 organization or group capable of contracting, if it finds such
53 action to be in the public interest.

54 (f) To charge and collect reasonable fees for health
55 services, including immunizations, inspections and related
56 activities, and the board shall charge fees for such services;
57 provided, however, if it is determined that a person receiving
58 services is unable to pay the total fee, the board shall collect
59 any amount such person is able to pay.

60 (g) To accept gifts, trusts, bequests, grants,
61 endowments or transfers of property of any kind.

62 (h) To receive monies coming to it by way of fees for
63 services or by appropriations.

64 (i) (i) To establish standards for, issue permits and
65 exercise control over, any cafes, restaurants, food or drink
66 stands, sandwich manufacturing establishments, and all other
67 establishments, other than churches, church-related and private
68 schools, and other nonprofit or charitable organizations, where
69 food or drink is regularly prepared, handled and served for pay;
70 and

71 (ii) To require that a permit be obtained from the
72 Department of Health before such persons begin operation. If any
73 such person fails to obtain the permit required herein, the State
74 Board of Health, after due notice and opportunity for a hearing,
75 may impose a monetary penalty not to exceed One Thousand Dollars
76 (\$1,000.00) for each violation. However, the department is not
77 authorized to impose a monetary penalty against any person whose
78 gross annual prepared food sales are less than Five Thousand
79 Dollars (\$5,000.00). Money collected by the board under this item
80 shall be deposited to the credit of the State General Fund of the
81 State Treasury. This subparagraph (ii) shall stand repealed on
82 July 1, 2010.

83 (j) To promulgate rules and regulations and exercise
84 control over the production and sale of milk pursuant to the
85 provisions of Sections 75-31-41 through 75-31-49.

86 (k) On presentation of proper authority, to enter into
87 and inspect any public place or building where the State Health
88 Officer or his representative deems it necessary and proper to
89 enter for the discovery and suppression of disease and for the
90 enforcement of any health or sanitary laws and regulations in the
91 state.

92 (1) To conduct investigations, inquiries and hearings,
93 and to issue subpoenas for the attendance of witnesses and the
94 production of books and records at any hearing when authorized and
95 required by statute to be conducted by the State Health Officer or
96 the State Board of Health.

97 (m) To employ, subject to the regulations of the State
98 Personnel Board, qualified professional personnel in the subject
99 matter or fields of each bureau, and such other technical and
100 clerical staff as may be required for the operation of the
101 department. The executive officer shall be the appointing
102 authority for the department, and shall have the power to delegate
103 the authority to appoint or dismiss employees to appropriate
104 subordinates, subject to the rules and regulations of the State
105 Personnel Board.

106 (n) To promulgate rules and regulations, and to collect
107 data and information, on (i) the delivery of services through the
108 practice of telemedicine; and (ii) the use of electronic records
109 for the delivery of telemedicine services.

110 (o) To enforce and regulate domestic and imported fish
111 as authorized under Section 69-7-601 et seq.

112 (5) (a) The State Board of Health shall have the authority,
113 in its discretion, to establish programs to promote the public
114 health, to be administered by the State Department of Health.
115 Specifically, such programs may include, but shall not be limited
116 to, programs in the following areas:

- 117 (i) Maternal and child health;
- 118 (ii) Family planning;
- 119 (iii) Pediatric services;
- 120 (iv) Services to crippled and disabled children;
- 121 (v) Control of communicable and noncommunicable
122 disease;
- 123 (vi) Child care licensure;
- 124 (vii) Radiological health;

- 125 (viii) Dental health;
- 126 (ix) Milk sanitation;
- 127 (x) Occupational safety and health;
- 128 (xi) Food, vector control and general sanitation;
- 129 (xii) Protection of drinking water;
- 130 (xiii) Sanitation in food handling establishments
131 open to the public;
- 132 (xiv) Registration of births and deaths and other
133 vital events;
- 134 (xv) Such public health programs and services as
135 may be assigned to the State Board of Health by the Legislature or
136 by executive order; and
- 137 (xvi) Regulation of domestic and imported fish for
138 human consumption.

139 (b) The State Board of Health and State Department of
140 Health shall not be authorized to sell, transfer, alienate or
141 otherwise dispose of any of the home health agencies owned and
142 operated by the department on January 1, 1995, and shall not be
143 authorized to sell, transfer, assign, alienate or otherwise
144 dispose of the license of any of those home health agencies,
145 except upon the specific authorization of the Legislature by an
146 amendment to this section. However, this paragraph (b) shall not
147 prevent the board or the department from closing or terminating
148 the operation of any home health agency owned and operated by the
149 department, or closing or terminating any office, branch office or
150 clinic of any such home health agency, or otherwise discontinuing
151 the providing of home health services through any such home health
152 agency, office, branch office or clinic, if the board first
153 demonstrates that there are other providers of home health
154 services in the area being served by the department's home health
155 agency, office, branch office or clinic that will be able to
156 provide adequate home health services to the residents of the area
157 if the department's home health agency, office, branch office or

158 clinic is closed or otherwise discontinues the providing of home
159 health services. This demonstration by the board that there are
160 other providers of adequate home health services in the area shall
161 be spread at length upon the minutes of the board at a regular or
162 special meeting of the board at least thirty (30) days before a
163 home health agency, office, branch office or clinic is proposed to
164 be closed or otherwise discontinue the providing of home health
165 services.

166 (c) The State Department of Health may undertake such
167 technical programs and activities as may be required for the
168 support and operation of such programs, including maintaining
169 physical, chemical, bacteriological and radiological laboratories,
170 and may make such diagnostic tests for diseases and tests for the
171 evaluation of health hazards as may be deemed necessary for the
172 protection of the people of the state.

173 (6) (a) The State Board of Health shall administer the
174 local governments and rural water systems improvements loan
175 program in accordance with the provisions of Section 41-3-16.

176 (b) The State Board of Health shall have authority:

177 (i) To enter into capitalization grant agreements
178 with the United States Environmental Protection Agency, or any
179 successor agency thereto;

180 (ii) To accept capitalization grant awards made
181 under the federal Safe Drinking Water Act, as amended;

182 (iii) To provide annual reports and audits to the
183 United States Environmental Protection Agency, as may be required
184 by federal capitalization grant agreements; and

185 (iv) To establish and collect fees to defray the
186 reasonable costs of administering the revolving fund or emergency
187 fund if the State Board of Health determines that such costs will
188 exceed the limitations established in the federal Safe Drinking
189 Water Act, as amended. The administration fees may be included in
190 loan amounts to loan recipients for the purpose of facilitating

191 payment to the board; however, such fees may not exceed five
192 percent (5%) of the loan amount.

193 **SECTION 2.** This act shall take effect and be in force from
194 and after July 1, 2007.