

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2993

1 AN ACT TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO  
2 DIRECT THE DEPARTMENT OF HEALTH TO MAINTAIN STAFF NECESSARY TO  
3 INSPECT HOSPICE LICENSES; TO PROHIBIT THE ISSUANCE OF NEW OR  
4 RENEWAL LICENSES IF THE STATE DEPARTMENT OF HEALTH FAILS TO  
5 PROVIDE SUCH INSPECTIONS WITHIN A SPECIFIC TIME FRAME; AND FOR  
6 RELATED PURPOSES.

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

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

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

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

19 (a) To collect and evaluate data on rural health  
20 conditions and needs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 (ii) To require that a permit be obtained from the  
74 Department of Health before such persons begin operation. If any  
75 such person fails to obtain the permit required herein, the State  
76 Board of Health, after due notice and opportunity for a hearing,  
77 may impose a monetary penalty not to exceed One Thousand Dollars  
78 (\$1,000.00) for each violation. However, the department is not  
79 authorized to impose a monetary penalty against any person whose  
80 gross annual prepared food sales are less than Five Thousand  
81 Dollars (\$5,000.00). Money collected by the board under this item  
82 shall be deposited to the credit of the State General Fund of the  
83 State Treasury. This subparagraph (ii) shall stand repealed on  
84 July 1, 2007.

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

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

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

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

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

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

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

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

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

141                   (b) The State Board of Health and State Department of

142 Health shall not be authorized to sell, transfer, alienate or

143 otherwise dispose of any of the home health agencies owned and

144 operated by the department on January 1, 1995, and shall not be

145 authorized to sell, transfer, assign, alienate or otherwise

146 dispose of the license of any of those home health agencies,

147 except upon the specific authorization of the Legislature by an

148 amendment to this section. However, this paragraph (b) shall not

149 prevent the board or the department from closing or terminating

150 the operation of any home health agency owned and operated by the

151 department, or closing or terminating any office, branch office or

152 clinic of any such home health agency, or otherwise discontinuing

153 the providing of home health services through any such home health

154 agency, office, branch office or clinic, if the board first

155 demonstrates that there are other providers of home health

156 services in the area being served by the department's home health

157 agency, office, branch office or clinic that will be able to

158 provide adequate home health services to the residents of the area

159 if the department's home health agency, office, branch office or

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

168 (c) The State Department of Health shall maintain  
169 sufficient and adequate survey staff to fulfill the requirements  
170 of the Mississippi Hospice Licensure Law, Section 41-85-1 et seq.  
171 The State Department of Health shall not accept any new or renewal  
172 application for licensure as a hospice when filed with the  
173 Department of Health prior to January 1, 2007, or thereafter,  
174 unless as of the date of any new application for licensure as a  
175 hospice, that all existing and fully functional Mississippi  
176 hospices licensed prior to that date have been inspected within  
177 the previous twelve (12) months of such application date. Such  
178 inspection(s) shall include, but not be limited to, a thorough  
179 on-site audit of the operation(s), patient care provided by the  
180 hospice, Inpatient Hospice Facility(s), if any, and/or current  
181 financial information if deemed necessary. The State Department  
182 of Health shall provide annually a report to the Legislature of  
183 the State of Mississippi that all existing and fully functional  
184 Mississippi hospices licensed have been inspected within the  
185 previous twelve (12) months.

186 (d) The State Department of Health may undertake such  
187 technical programs and activities as may be required for the  
188 support and operation of such programs, including maintaining  
189 physical, chemical, bacteriological and radiological laboratories,  
190 and may make such diagnostic tests for diseases and tests for the  
191 evaluation of health hazards as may be deemed necessary for the  
192 protection of the people of the state.

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

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

197                           (i) To enter into capitalization grant agreements  
198 with the United States Environmental Protection Agency, or any  
199 successor agency thereto;

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

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

205                           (iv) To establish and collect fees to defray the  
206 reasonable costs of administering the revolving fund or emergency  
207 fund if the State Board of Health determines that such costs will  
208 exceed the limitations established in the federal Safe Drinking  
209 Water Act, as amended. The administration fees may be included in  
210 loan amounts to loan recipients for the purpose of facilitating  
211 payment to the board; however, such fees may not exceed five  
212 percent (5%) of the loan amount.

213           **SECTION 2.** This act shall take effect and be in force from  
214 and after its passage.