

By: Representatives Mims, Sykes, Campbell,  
Dixon

To: Public Health and Human  
Services

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1178

1 AN ACT TO AMEND SECTION 73-25-34, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE DEFINITION OF TELEMEDICINE SERVICES IN THE MEDICAL  
3 PRACTICE ACT AND PROVIDE STANDARDS FOR PHYSICIANS PROVIDING  
4 TREATMENT VIA TELEMEDICINE SERVICES; TO BRING FORWARD SECTION  
5 41-3-15, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF POSSIBLE  
6 AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 73-25-34, Mississippi Code of 1972, is  
9 amended as follows:

10 73-25-34. \* \* \* (1) As used in this section, the following  
11 terms shall be defined as provided in this subsection:

12 (a) "Telemedicine" is the practice of medicine using  
13 telemedicine services as defined in paragraph (b).

14 (b) "Telemedicine services" means the delivery of  
15 health care services such as diagnosis, consultation, or treatment  
16 by a physician located at a site other than the patient through  
17 the use of interactive audio, video, or other electronic media,  
18 and is not a separate form of medicine.

19 (2) The practice of medicine under this section is deemed to  
20 occur at the location of the patient.



21       (3) The physician-patient relationship is established when a  
22 physician agrees to undertake diagnosis and treatment of a patient  
23 through telemedicine services and the patient consents to being  
24 treated. The physician-patient relationship ends when either the  
25 patient terminates the physician-patient relationship; the patient  
26 no longer requires the care of the physician; the physician agreed  
27 to treat or diagnose only a specific condition or agreed to  
28 diagnose or treat only at a specific time or place and that  
29 condition diagnosis or treatment has ended; or the physician  
30 terminates the physician-patient relationship by notifying the  
31 patient in writing of withdrawal from care after a specific time  
32 that is stated in a letter.

33       (4) A patient must give informed consent for all  
34 telemedicine services. Informed consent shall be obtained in  
35 accordance with any applicable law; however, any such regulations  
36 shall be consistent with and no more restrictive than informed  
37 consent provisions for traditional face-to-face medical services.

38       (5) Before providing telemedicine services, the physician  
39 shall obtain and document a patient's relevant clinical history  
40 and current symptoms to diagnose, treat, consult, and identify  
41 underlying conditions, treatment, and contraindications, if any.  
42 Medical records must be maintained and accessible in accordance  
43 with applicable law. The content of medical records shall be  
44 maintained at or above the same standard as traditional  
45 face-to-face medical services.



46       (6) Sufficient privacy and security measures must be in  
47 place and documented to assure confidentiality and integrity of  
48 the health information of a patient. Any physician offering  
49 telemedicine services as part of his or her practice shall meet or  
50 exceed any applicable state and federal laws, rules and  
51 regulations, including the Health Insurance Portability and  
52 Accountability Act (HIPAA), P.L. 104-191 (1996), as amended, and  
53 the Health Information Technology for Economic and Clinical Health  
54 Act (HITECH), P.L. 111-115 (2009), as amended. Such records shall  
55 be accessible to other providers and to the patient in accordance  
56 with applicable laws, rules and regulations.

57       (7) Prescribing medications via telemedicine is at the  
58 professional discretion of the physician. The indication,  
59 appropriateness, and safety considerations for each prescription  
60 ordered via telemedicine must be evaluated by the physician in  
61 accordance with applicable regulations and standards of practice  
62 and consequently carry the same professional accountability as if  
63 prescribed in person. However, medication prescribed via  
64 telemedicine shall not be a controlled substance unless it is  
65 prescribed in compliance with Section 41-29-137 and 21 USC Section  
66 802(54)(A).

67       (8) A physician who fails to comply with or violates this  
68 section is subject to discipline by the State Board of Medical  
69 Licensure.



70       (9) When a patient initiates a consultation with a company,  
71 organization or other entity providing telemedicine services, the  
72 company, organization or entity must have the ability and provide  
73 the option to offer telemedicine services to the patient through  
74 communication methods other than by telephone only. A company,  
75 organization or other entity providing telemedicine services must  
76 have the ability to offer multiple forms of telemedicine services  
77 and cannot be solely telephone services. The cost of telemedicine  
78 services must be the same to the patient regardless of which  
79 communication method is used to provide the services.  
80 Telemedicine services in the state must be provided by a  
81 Mississippi licensed physician.

82       (10) The State Board of Health is authorized to promulgate  
83 rules and regulations relating to the provisions in this section  
84 regarding telemedicine, and the State Board of Health shall be the  
85 only state agency that is authorized to regulate telemedicine,  
86 except where the State Board of Medical Licensure is specifically  
87 given authority under this section. However, any such rules and  
88 regulations shall be consistent with and no more restrictive than  
89 the provisions contained in this section.

90       **SECTION 2.** Section 41-3-15, Mississippi Code of 1972, is  
91 brought forward as follows:

92       41-3-15. (1) (a) There shall be a State Department of  
93 Health.



94                   (b) The State Board of Health shall have the following  
95 powers and duties:

96                   (i) To formulate the policy of the State  
97 Department of Health regarding public health matters within the  
98 jurisdiction of the department;

99                   (ii) To adopt, modify, repeal and promulgate,  
100 after due notice and hearing, and enforce rules and regulations  
101 implementing or effectuating the powers and duties of the  
102 department under any and all statutes within the department's  
103 jurisdiction, and as the board may deem necessary;

104                   (iii) To apply for, receive, accept and expend any  
105 federal or state funds or contributions, gifts, trusts, devises,  
106 bequests, grants, endowments or funds from any other source or  
107 transfers of property of any kind;

108                   (iv) To enter into, and to authorize the executive  
109 officer to execute contracts, grants and cooperative agreements  
110 with any federal or state agency or subdivision thereof, or any  
111 public or private institution located inside or outside the State  
112 of Mississippi, or any person, corporation or association in  
113 connection with carrying out the provisions of this chapter, if it  
114 finds those actions to be in the public interest and the contracts  
115 or agreements do not have a financial cost that exceeds the  
116 amounts appropriated for those purposes by the Legislature;

117                   (v) To appoint, upon recommendation of the  
118 Executive Officer of the State Department of Health, a Director of



Internal Audit who shall be either a Certified Public Accountant or Certified Internal Auditor, and whose employment shall be continued at the discretion of the board, and who shall report directly to the board, or its designee; and

(vi) To discharge such other duties, responsibilities and powers as are necessary to implement the provisions of this chapter.

(c) The Executive Officer of the State Department of Health shall have the following powers and duties:

(i) To administer the policies of the State Board of Health within the authority granted by the board;

(ii) To supervise and direct all administrative and technical activities of the department, except that the department's internal auditor shall be subject to the sole supervision and direction of the board;

(iii) To organize the administrative units of the department in accordance with the plan adopted by the board and, with board approval, alter the organizational plan and reassign responsibilities as he or she may deem necessary to carry out the policies of the board;

(iv) To coordinate the activities of the various offices of the department;

(v) To employ, subject to regulations of the State Personnel Board, qualified professional personnel in the subject matter or fields of each office, and such other technical and



144 clerical staff as may be required for the operation of the  
145 department. The executive officer shall be the appointing  
146 authority for the department, and shall have the power to delegate  
147 the authority to appoint or dismiss employees to appropriate  
148 subordinates, subject to the rules and regulations of the State  
149 Personnel Board;

150 (vi) To recommend to the board such studies and  
151 investigations as he or she may deem appropriate, and to carry out  
152 the approved recommendations in conjunction with the various  
153 offices;

154 (vii) To prepare and deliver to the Legislature  
155 and the Governor on or before January 1 of each year, and at such  
156 other times as may be required by the Legislature or Governor, a  
157 full report of the work of the department and the offices thereof,  
158 including a detailed statement of expenditures of the department  
159 and any recommendations the board may have;

160 (viii) To prepare and deliver to the Chairmen of  
161 the Public Health and Welfare/Human Services Committees of the  
162 Senate and House on or before January 1 of each year, a plan for  
163 monitoring infant mortality in Mississippi and a full report of  
164 the work of the department on reducing Mississippi's infant  
165 mortality and morbidity rates and improving the status of maternal  
166 and infant health; and

167 (ix) To enter into contracts, grants and  
168 cooperative agreements with any federal or state agency or



subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, if he or she finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those purposes by the Legislature. Each contract or agreement entered into by the executive officer shall be submitted to the board before its next meeting.

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

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

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

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

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

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





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

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

198               (a) To make investigations and inquiries with respect  
199 to the causes of disease and death, and to investigate the effect  
200 of environment, including conditions of employment and other  
201 conditions that may affect health, and to make such other  
202 investigations as it may deem necessary for the preservation and  
203 improvement of health.

204               (b) To make such sanitary investigations as it may,  
205 from time to time, deem necessary for the protection and  
206 improvement of health and to investigate nuisance questions that  
207 affect the security of life and health within the state.

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

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

215               (e) To charge and collect reasonable fees for health  
216 services, including immunizations, inspections and related  
217 activities, and the board shall charge fees for those services;



provided, however, if it is determined that a person receiving services is unable to pay the total fee, the board shall collect any amount that the person is able to pay.

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

(ii) To require that a permit be obtained from the Department of Health before those persons begin operation. If any such person fails to obtain the permit required in this subparagraph (ii), the State Board of Health, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed One Thousand Dollars (\$1,000.00) for each violation. However, the department is not authorized to impose a monetary penalty against any person whose gross annual prepared food sales are less than Five Thousand Dollars (\$5,000.00). Money collected by the board under this subparagraph (ii) shall be deposited to the credit of the State General Fund of the State Treasury.

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



242 (h) On presentation of proper authority, to enter into  
243 and inspect any public place or building where the State Health  
244 Officer or his representative deems it necessary and proper to  
245 enter for the discovery and suppression of disease and for the  
246 enforcement of any health or sanitary laws and regulations in the  
247 state.

248 (i) To conduct investigations, inquiries and hearings,  
249 and to issue subpoenas for the attendance of witnesses and the  
250 production of books and records at any hearing when authorized and  
251 required by statute to be conducted by the State Health Officer or  
252 the State Board of Health.

253 (j) To promulgate rules and regulations, and to collect  
254 data and information, on (i) the delivery of services through the  
255 practice of telemedicine; and (ii) the use of electronic records  
256 for the delivery of telemedicine services.

257 (k) To enforce and regulate domestic and imported fish  
258 as authorized under Section 69-7-601 et seq.

259 (5) (a) The State Board of Health shall have the authority,  
260 in its discretion, to establish programs to promote the public  
261 health, to be administered by the State Department of Health.  
262 Specifically, those programs may include, but shall not be limited  
263 to, programs in the following areas:

- 264 (i) Maternal and child health;
- 265 (ii) Family planning;
- 266 (iii) Pediatric services;



267 (iv) Services to crippled and disabled children;  
268 (v) Control of communicable and noncommunicable  
269 disease;  
270 (vi) Chronic disease;  
271 (vii) Accidental deaths and injuries;  
272 (viii) Child care licensure;  
273 (ix) Radiological health;  
274 (x) Dental health;  
275 (xi) Milk sanitation;  
276 (xii) Occupational safety and health;  
277 (xiii) Food, vector control and general  
278 sanitation;  
279 (xiv) Protection of drinking water;  
280 (xv) Sanitation in food handling establishments  
281 open to the public;  
282 (xvi) Registration of births and deaths and other  
283 vital events;  
284 (xvii) Such public health programs and services as  
285 may be assigned to the State Board of Health by the Legislature or  
286 by executive order; and  
287 (xviii) Regulation of domestic and imported fish  
288 for human consumption.  
289 (b) The State Board of Health and State Department of  
290 Health shall not be authorized to sell, transfer, alienate or  
291 otherwise dispose of any of the home health agencies owned and



292 operated by the department on January 1, 1995, and shall not be  
293 authorized to sell, transfer, assign, alienate or otherwise  
294 dispose of the license of any of those home health agencies,  
295 except upon the specific authorization of the Legislature by an  
296 amendment to this section. However, this paragraph (b) shall not  
297 prevent the board or the department from closing or terminating  
298 the operation of any home health agency owned and operated by the  
299 department, or closing or terminating any office, branch office or  
300 clinic of any such home health agency, or otherwise discontinuing  
301 the providing of home health services through any such home health  
302 agency, office, branch office or clinic, if the board first  
303 demonstrates that there are other providers of home health  
304 services in the area being served by the department's home health  
305 agency, office, branch office or clinic that will be able to  
306 provide adequate home health services to the residents of the area  
307 if the department's home health agency, office, branch office or  
308 clinic is closed or otherwise discontinues the providing of home  
309 health services. This demonstration by the board that there are  
310 other providers of adequate home health services in the area shall  
311 be spread at length upon the minutes of the board at a regular or  
312 special meeting of the board at least thirty (30) days before a  
313 home health agency, office, branch office or clinic is proposed to  
314 be closed or otherwise discontinue the providing of home health  
315 services.



316 (c) The State Department of Health may undertake such  
317 technical programs and activities as may be required for the  
318 support and operation of those programs, including maintaining  
319 physical, chemical, bacteriological and radiological laboratories,  
320 and may make such diagnostic tests for diseases and tests for the  
321 evaluation of health hazards as may be deemed necessary for the  
322 protection of the people of the state.

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

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

327 (i) To enter into capitalization grant agreements  
328 with the United States Environmental Protection Agency, or any  
329 successor agency thereto;

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

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

335 (iv) To establish and collect fees to defray the  
336 reasonable costs of administering the revolving fund or emergency  
337 fund if the State Board of Health determines that those costs will  
338 exceed the limitations established in the federal Safe Drinking  
339 Water Act, as amended. The administration fees may be included in  
340 loan amounts to loan recipients for the purpose of facilitating



341 payment to the board; however, those fees may not exceed five  
342 percent (5%) of the loan amount.

343 (7) Notwithstanding any other provision to the contrary, the  
344 State Department of Health shall have the following specific  
345 powers: The department shall issue a license to Alexander Milne  
346 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the  
347 construction, conversion, expansion and operation of not more than  
348 forty-five (45) beds for developmentally disabled adults who have  
349 been displaced from New Orleans, Louisiana, with the beds to be  
350 located in a certified ICF-MR facility in the City of Laurel,  
351 Mississippi. There shall be no prohibition or restrictions on  
352 participation in the Medicaid program for the person receiving the  
353 license under this subsection (7). The license described in this  
354 subsection shall expire five (5) years from the date of its issue.  
355 The license authorized by this subsection shall be issued upon the  
356 initial payment by the licensee of an application fee of  
357 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of  
358 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of  
359 the license, to be paid as long as the licensee continues to  
360 operate. The initial and monthly licensing fees shall be  
361 deposited by the State Department of Health into the special fund  
362 created under Section 41-7-188.

363 (8) Notwithstanding any other provision to the contrary, the  
364 State Department of Health shall have the following specific  
365 powers: The State Department of Health is authorized to issue a



license to an existing home health agency for the transfer of a county from that agency to another existing home health agency, and to charge a fee for reviewing and making a determination on the application for such transfer not to exceed one-half (1/2) of the authorized fee assessed for the original application for the home health agency, with the revenue to be deposited by the State Department of Health into the special fund created under Section 41-7-188.

(9) Notwithstanding any other provision to the contrary, the State Department of Health shall have the following specific powers: For the period beginning July 1, 2010, through July 1, 2017, the State Department of Health is authorized and empowered to assess a fee in addition to the fee prescribed in Section 41-7-188 for reviewing applications for certificates of need in an amount not to exceed twenty-five one-hundredths of one percent (.25 of 1%) of the amount of a proposed capital expenditure, but shall be not less than Two Hundred Fifty Dollars (\$250.00) regardless of the amount of the proposed capital expenditure, and the maximum additional fee permitted shall not exceed Fifty Thousand Dollars (\$50,000.00). Provided that the total assessments of fees for certificate of need applications under Section 41-7-188 and this section shall not exceed the actual cost of operating the certificate of need program.

(10) Notwithstanding any other provision to the contrary, the State Department of Health shall have the following specific





391 powers: The State Department of Health is authorized to extend  
392 and renew any certificate of need that has expired, and to charge  
393 a fee for reviewing and making a determination on the application  
394 for such action not to exceed one-half (1/2) of the authorized fee  
395 assessed for the original application for the certificate of need,  
396 with the revenue to be deposited by the State Department of Health  
397 into the special fund created under Section 41-7-188.

398 (11) Notwithstanding any other provision to the contrary,  
399 the State Department of Health shall have the following specific  
400 powers: The State Department of Health is authorized and  
401 empowered, to revoke, immediately, the license and require closure  
402 of any institution for the aged or infirm, including any other  
403 remedy less than closure to protect the health and safety of the  
404 residents of said institution or the health and safety of the  
405 general public.

406 (12) Notwithstanding any other provision to the contrary,  
407 the State Department of Health shall have the following specific  
408 powers: The State Department of Health is authorized and  
409 empowered, to require the temporary detainment of individuals for  
410 disease control purposes based upon violation of any order of the  
411 State Health Officer, as provided in Section 41-23-5. For the  
412 purpose of enforcing such orders of the State Health Officer,  
413 persons employed by the department as investigators shall have  
414 general arrest powers. All law enforcement officers are



415 authorized and directed to assist in the enforcement of such  
416 orders of the State Health Officer.

417       **SECTION 3.** This act shall take effect and be in force from  
418 and after July 1, 2016.

