

By: Senator(s) Parks

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2818

1 AN ACT TO AMEND SECTIONS 41-3-43 AND 41-3-53, MISSISSIPPI
2 CODE OF 1972, AND BRING FORWARD SECTION 41-3-15, MISSISSIPPI CODE
3 OF 1972, TO AUTHORIZE AND DIRECT THE LOCAL BOARDS OF SUPERVISORS
4 TO COMPLY WITH APPLICABLE HEALTH AND SAFETY STANDARDS AS SET BY
5 THE STATE BOARD OF HEALTH IN THE CONSTRUCTION, MAINTENANCE,
6 EQUIPPING, STAFFING AND SUPPORT LOCAL COUNTY HEALTH DEPARTMENT
7 BUILDINGS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 41-3-43, Mississippi Code of 1972, is
10 amended as follows:

11 41-3-43. (1) (a) Each county in the state is authorized in
12 its discretion to create a county health department and to
13 appropriate funds for its support. A director for the same shall
14 be appointed in accordance with Section 41-3-37 and certified to
15 the board of supervisors of the county. Said director shall be a
16 licensed physician, well trained in health work and shall be
17 required to give his entire time to the work.

18 (b) The board of supervisors is authorized and directed
19 to comply with health and safety standards as set by the State
20 Board of Health pursuant to Sections 41-3-43 and 41-3-49,



21 Mississippi Code of 1972, and to appropriate and expends local
22 funds from any available source for the construction, maintenance,
23 equipping, staffing and support of county health department
24 buildings.

25 (2) (a) The State Board of Health may create public health
26 districts of two (2) or more counties for the purpose of
27 administering health programs and supervising public health
28 workers in the district. The State Board of Health or its
29 executive officer shall appoint for each such district created a
30 district director, who shall be a licensed physician, well trained
31 in public health work, who shall give his entire time to the work.
32 The district director may serve as county health officer of any or
33 all counties in the district.

34 (b) The boards of supervisors of the counties
35 comprising a public health district are hereby authorized, in
36 their discretion, to appropriate funds for the support of the
37 public health district from the general funds of the counties; and
38 pursuant to Section 19-9-97, to levy additional taxes for the
39 support of county or district health departments.

40 (3) When any county or counties create a health department
41 hereunder, then all other local or municipal or county public
42 health agencies and departments are thereby automatically
43 abolished, and said county and district health departments shall
44 have full control over all health matters in said county and
45 counties, including all municipalities therein, subject to the



46 supervision, direction, and jurisdiction of the State Board of
47 Health. The proper authorities of any municipality in the State
48 of Mississippi are hereby authorized in their discretion to make
49 an appropriation for the support of such county or district health
50 department from the general funds of such municipality.

51 **SECTION 2.** Section 41-3-53, Mississippi Code of 1972, is
52 amended as follows:

53 41-3-53. The board of supervisors shall be authorized to
54 make such appropriations for the Department of Health as may be
55 necessary to pay the salary of the director, and the salaries of
56 all necessary sanitary inspectors, nurses, and such other
57 employees as may be employed for carrying on the work. The board
58 shall be authorized to pay all necessary traveling expenses of
59 said employees in the performance of their duties. The board
60 shall be authorized to pay for all necessary medicine, materials
61 and supplies. The board shall provide an office for its health
62 department, and furnish said office, and its employees, with all
63 necessary record books, stationery, stamps, tables, chairs,
64 furniture and all other necessary articles. The board is also
65 authorized to do any and all things necessary and proper to
66 maintain and support a health department. The board of
67 supervisors is authorized and directed to comply with health and
68 safety standards as set by the State Board of Health pursuant to
69 Sections 41-3-43 and 41-3-49, Mississippi Code of 1972, and to
70 appropriate and expend local funds from any available source for



71 the construction, maintenance, equipping, staffing and support of
72 county health department buildings. Where two (2) or more
73 counties shall unite in having a Department of Health, the amount
74 contributed by each for maintaining and supporting the work shall
75 be agreed upon by the respective counties, subject to the approval
76 of the State Board of Health, or its executive committee, and all
77 salaries to be paid shall be recommended by the State Board of
78 Health, or its executive committee to the board of supervisors of
79 the county or counties for which the officers or employees are to
80 act. All employees shall be recommended by the State Board of
81 Health, or its executive committee, and all salaries shall be
82 recommended in the same way.

83 **SECTION 3.** Section 41-3-15, Mississippi Code of 1972, is
84 brought forward as follows:

85 41-3-15. (1) (a) There shall be a State Department of
86 Health.

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

89 (i) To formulate the policy of the State
90 Department of Health regarding public health matters within the
91 jurisdiction of the department;

92 (ii) To adopt, modify, repeal and promulgate,
93 after due notice and hearing, and enforce rules and regulations
94 implementing or effectuating the powers and duties of the



95 department under any and all statutes within the department's
96 jurisdiction, and as the board may deem necessary;

97 (iii) To apply for, receive, accept and expend any
98 federal or state funds or contributions, gifts, trusts, devises,
99 bequests, grants, endowments or funds from any other source or
100 transfers of property of any kind;

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

110 (v) To appoint, upon recommendation of the
111 Executive Officer of the State Department of Health, a Director of
112 Internal Audit who shall be either a Certified Public Accountant
113 or Certified Internal Auditor, and whose employment shall be
114 continued at the discretion of the board, and who shall report
115 directly to the board, or its designee; and

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



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

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

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

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

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

134 (v) To employ, subject to regulations of the State
135 Personnel Board, qualified professional personnel in the subject
136 matter or fields of each office, and such other technical and
137 clerical staff as may be required for the operation of the
138 department. The executive officer shall be the appointing
139 authority for the department, and shall have the power to delegate
140 the authority to appoint or dismiss employees to appropriate
141 subordinates, subject to the rules and regulations of the State
142 Personnel Board;



143 (vi) To recommend to the board such studies and
144 investigations as he or she may deem appropriate, and to carry out
145 the approved recommendations in conjunction with the various
146 offices;

147 (vii) To prepare and deliver to the Legislature
148 and the Governor on or before January 1 of each year, and at such
149 other times as may be required by the Legislature or Governor, a
150 full report of the work of the department and the offices thereof,
151 including a detailed statement of expenditures of the department
152 and any recommendations the board may have;

153 (viii) To prepare and deliver to the Chairmen of
154 the Public Health and Welfare/Human Services Committees of the
155 Senate and House on or before January 1 of each year, a plan for
156 monitoring infant mortality in Mississippi and a full report of
157 the work of the department on reducing Mississippi's infant
158 mortality and morbidity rates and improving the status of maternal
159 and infant health; and

160 (ix) To enter into contracts, grants and
161 cooperative agreements with any federal or state agency or
162 subdivision thereof, or any public or private institution located
163 inside or outside the State of Mississippi, or any person,
164 corporation or association in connection with carrying out the
165 provisions of this chapter, if he or she finds those actions to be
166 in the public interest and the contracts or agreements do not have
167 a financial cost that exceeds the amounts appropriated for those



168 purposes by the Legislature. Each contract or agreement entered
169 into by the executive officer shall be submitted to the board
170 before its next meeting.

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

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

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

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

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

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

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

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

191 (a) To make investigations and inquiries with respect
192 to the causes of disease and death, and to investigate the effect



193 of environment, including conditions of employment and other
194 conditions that may affect health, and to make such other
195 investigations as it may deem necessary for the preservation and
196 improvement of health.

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

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

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

208 (e) To charge and collect reasonable fees for health
209 services, including immunizations, inspections and related
210 activities, and the board shall charge fees for those services;
211 however, if it is determined that a person receiving services is
212 unable to pay the total fee, the board shall collect any amount
213 that the person is able to pay. Any increase in the fees charged
214 by the board under this paragraph shall be in accordance with the
215 provisions of Section 41-3-65.

216 (f) (i) To establish standards for, issue permits and
217 exercise control over, any cafes, restaurants, food or drink



218 stands, sandwich manufacturing establishments, and all other
219 establishments, other than churches, church-related and private
220 schools, and other nonprofit or charitable organizations, where
221 food or drink is regularly prepared, handled and served for pay;
222 and

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

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

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



243 (i) To conduct investigations, inquiries and hearings,
244 and to issue subpoenas for the attendance of witnesses and the
245 production of books and records at any hearing when authorized and
246 required by statute to be conducted by the State Health Officer or
247 the State Board of Health.

248 (j) To promulgate rules and regulations, and to collect
249 data and information, on (i) the delivery of services through the
250 practice of telemedicine; and (ii) the use of electronic records
251 for the delivery of telemedicine services.

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

254 (5) (a) The State Board of Health shall have the authority,
255 in its discretion, to establish programs to promote the public
256 health, to be administered by the State Department of Health.
257 Specifically, those programs may include, but shall not be limited
258 to, programs in the following areas:

- 259 (i) Maternal and child health;
- 260 (ii) Family planning;
- 261 (iii) Pediatric services;
- 262 (iv) Services to crippled and disabled children;
- 263 (v) Control of communicable and noncommunicable
264 disease;
- 265 (vi) Chronic disease;
- 266 (vii) Accidental deaths and injuries;
- 267 (viii) Child care licensure;



268 (ix) Radiological health;
269 (x) Dental health;
270 (xi) Milk sanitation;
271 (xii) Occupational safety and health;
272 (xiii) Food, vector control and general
273 sanitation;
274 (xiv) Protection of drinking water;
275 (xv) Sanitation in food handling establishments
276 open to the public;
277 (xvi) Registration of births and deaths and other
278 vital events;
279 (xvii) Such public health programs and services as
280 may be assigned to the State Board of Health by the Legislature or
281 by executive order; and
282 (xviii) Regulation of domestic and imported fish
283 for human consumption.
284 (b) The State Board of Health and State Department of
285 Health shall not be authorized to sell, transfer, alienate or
286 otherwise dispose of any of the home health agencies owned and
287 operated by the department on January 1, 1995, and shall not be
288 authorized to sell, transfer, assign, alienate or otherwise
289 dispose of the license of any of those home health agencies,
290 except upon the specific authorization of the Legislature by an
291 amendment to this section. However, this paragraph (b) shall not
292 prevent the board or the department from closing or terminating



293 the operation of any home health agency owned and operated by the
294 department, or closing or terminating any office, branch office or
295 clinic of any such home health agency, or otherwise discontinuing
296 the providing of home health services through any such home health
297 agency, office, branch office or clinic, if the board first
298 demonstrates that there are other providers of home health
299 services in the area being served by the department's home health
300 agency, office, branch office or clinic that will be able to
301 provide adequate home health services to the residents of the area
302 if the department's home health agency, office, branch office or
303 clinic is closed or otherwise discontinues the providing of home
304 health services. This demonstration by the board that there are
305 other providers of adequate home health services in the area shall
306 be spread at length upon the minutes of the board at a regular or
307 special meeting of the board at least thirty (30) days before a
308 home health agency, office, branch office or clinic is proposed to
309 be closed or otherwise discontinue the providing of home health
310 services.

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



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

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

322 (i) To enter into capitalization grant agreements
323 with the United States Environmental Protection Agency, or any
324 successor agency thereto;

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

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

330 (iv) To establish and collect fees to defray the
331 reasonable costs of administering the revolving fund or emergency
332 fund if the State Board of Health determines that those costs will
333 exceed the limitations established in the federal Safe Drinking
334 Water Act, as amended. The administration fees may be included in
335 loan amounts to loan recipients for the purpose of facilitating
336 payment to the board; however, those fees may not exceed five
337 percent (5%) of the loan amount.

338 (7) Notwithstanding any other provision to the contrary, the
339 State Department of Health shall have the following specific
340 powers: The department shall issue a license to Alexander Milne
341 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
342 construction, conversion, expansion and operation of not more than



343 forty-five (45) beds for developmentally disabled adults who have
344 been displaced from New Orleans, Louisiana, with the beds to be
345 located in a certified ICF-MR facility in the City of Laurel,
346 Mississippi. There shall be no prohibition or restrictions on
347 participation in the Medicaid program for the person receiving the
348 license under this subsection (7). The license described in this
349 subsection shall expire five (5) years from the date of its issue.
350 The license authorized by this subsection shall be issued upon the
351 initial payment by the licensee of an application fee of
352 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
353 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
354 the license, to be paid as long as the licensee continues to
355 operate. The initial and monthly licensing fees shall be
356 deposited by the State Department of Health into the special fund
357 created under Section 41-7-188.

358 (8) Notwithstanding any other provision to the contrary, the
359 State Department of Health shall have the following specific
360 powers: The State Department of Health is authorized to issue a
361 license to an existing home health agency for the transfer of a
362 county from that agency to another existing home health agency,
363 and to charge a fee for reviewing and making a determination on
364 the application for such transfer not to exceed one-half (1/2) of
365 the authorized fee assessed for the original application for the
366 home health agency, with the revenue to be deposited by the State



367 Department of Health into the special fund created under Section
368 41-7-188.

369 (9) Notwithstanding any other provision to the contrary, the
370 State Department of Health shall have the following specific
371 powers: For the period beginning July 1, 2010, through July 1,
372 2017, the State Department of Health is authorized and empowered
373 to assess a fee in addition to the fee prescribed in Section
374 41-7-188 for reviewing applications for certificates of need in an
375 amount not to exceed twenty-five one-hundredths of one percent
376 (.25 of 1%) of the amount of a proposed capital expenditure, but
377 shall be not less than Two Hundred Fifty Dollars (\$250.00)
378 regardless of the amount of the proposed capital expenditure, and
379 the maximum additional fee permitted shall not exceed Fifty
380 Thousand Dollars (\$50,000.00). Provided that the total
381 assessments of fees for certificate of need applications under
382 Section 41-7-188 and this section shall not exceed the actual cost
383 of operating the certificate of need program.

384 (10) Notwithstanding any other provision to the contrary,
385 the State Department of Health shall have the following specific
386 powers: The State Department of Health is authorized to extend
387 and renew any certificate of need that has expired, and to charge
388 a fee for reviewing and making a determination on the application
389 for such action not to exceed one-half (1/2) of the authorized fee
390 assessed for the original application for the certificate of need,



391 with the revenue to be deposited by the State Department of Health
392 into the special fund created under Section 41-7-188.

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

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

412 **SECTION 4.** This act shall take effect and be in force from
413 and after July 1, 2022.

