

By: Representative Eubanks

To: Public Health and Human
Services

HOUSE BILL NO. 619

1 AN ACT TO AMEND SECTIONS 41-3-15 AND 41-23-5, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT ANY ORDERS ISSUED BY THE STATE
3 HEALTH OFFICER TO DIRECT AND CONTROL SANITARY AND QUARANTINE
4 MEASURES FOR DEALING WITH ALL DISEASES WITHIN THE STATE POSSIBLE
5 TO SUPPRESS SAME AND PREVENT THEIR SPREAD SHALL BE APPROVED BY THE
6 GOVERNOR BEFORE THEY ARE RELEASED TO THE PUBLIC; AND FOR RELATED
7 PURPOSES.

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

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

11 41-3-15. (1) (a) There shall be a State Department of
12 Health.

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

15 (i) To formulate the policy of the State
16 Department of Health regarding public health matters within the
17 jurisdiction of the department;

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



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

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

(iv) To enter into, and to authorize the executive officer to execute contracts, grants and 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 it 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;

(v) To appoint, upon recommendation of the 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.



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

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

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

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

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

60 (v) To employ, subject to regulations of the State
61 Personnel Board, qualified professional personnel in the subject
62 matter or fields of each office, and such other technical and
63 clerical staff as may be required for the operation of the
64 department. The executive officer shall be the appointing
65 authority for the department, and shall have the power to delegate
66 the authority to appoint or dismiss employees to appropriate
67 subordinates, subject to the rules and regulations of the State
68 Personnel Board;



69 (vi) To recommend to the board such studies and
70 investigations as he or she may deem appropriate, and to carry out
71 the approved recommendations in conjunction with the various
72 offices;

73 (vii) To prepare and deliver to the Legislature
74 and the Governor on or before January 1 of each year, and at such
75 other times as may be required by the Legislature or Governor, a
76 full report of the work of the department and the offices thereof,
77 including a detailed statement of expenditures of the department
78 and any recommendations the board may have;

79 (viii) To prepare and deliver to the Chairmen of
80 the Public Health and Welfare/Human Services Committees of the
81 Senate and House on or before January 1 of each year, a plan for
82 monitoring infant mortality in Mississippi and a full report of
83 the work of the department on reducing Mississippi's infant
84 mortality and morbidity rates and improving the status of maternal
85 and infant health; and

86 (ix) To enter into contracts, grants and
87 cooperative agreements with any federal or state agency or
88 subdivision thereof, or any public or private institution located
89 inside or outside the State of Mississippi, or any person,
90 corporation or association in connection with carrying out the
91 provisions of this chapter, if he or she finds those actions to be
92 in the public interest and the contracts or agreements do not have
93 a financial cost that exceeds the amounts appropriated for those



94 purposes by the Legislature. Each contract or agreement entered
95 into by the executive officer shall be submitted to the board
96 before its next meeting.

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

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

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

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

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

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

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

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

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



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

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

(c) To direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread; however, any orders issued under this paragraph (c) shall be approved by the Governor before they are released to the public.

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

(e) To charge and collect reasonable fees for health services, including immunizations, inspections and related activities, and the board shall charge fees for those services; 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. Any increase in the fees charged by the board under this paragraph shall be in accordance with the provisions of Section 41-3-65.



(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.

(h) On presentation of proper authority, to enter into and inspect any public place or building where the State Health Officer or his representative deems it necessary and proper to enter for the discovery and suppression of disease and for the



enforcement of any health or sanitary laws and regulations in the state.

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

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

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

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

- (i) Maternal and child health;
- (ii) Family planning;
- (iii) Pediatric services;
- (iv) Services to crippled and disabled children;
- (v) Control of communicable and noncommunicable disease;
- (vi) Chronic disease;



194 (vii) Accidental deaths and injuries;
195 (viii) Child care licensure;
196 (ix) Radiological health;
197 (x) Dental health;
198 (xi) Milk sanitation;
199 (xii) Occupational safety and health;
200 (xiii) Food, vector control and general
201 sanitation;
202 (xiv) Protection of drinking water;
203 (xv) Sanitation in food handling establishments
204 open to the public;
205 (xvi) Registration of births and deaths and other
206 vital events;
207 (xvii) Such public health programs and services as
208 may be assigned to the State Board of Health by the Legislature or
209 by executive order; and
210 (xviii) Regulation of domestic and imported fish
211 for human consumption.

212 (b) The State Board of Health and State Department of
213 Health shall not be authorized to sell, transfer, alienate or
214 otherwise dispose of any of the home health agencies owned and
215 operated by the department on January 1, 1995, and shall not be
216 authorized to sell, transfer, assign, alienate or otherwise
217 dispose of the license of any of those home health agencies,
218 except upon the specific authorization of the Legislature by an



219 amendment to this section. However, this paragraph (b) shall not
220 prevent the board or the department from closing or terminating
221 the operation of any home health agency owned and operated by the
222 department, or closing or terminating any office, branch office or
223 clinic of any such home health agency, or otherwise discontinuing
224 the providing of home health services through any such home health
225 agency, office, branch office or clinic, if the board first
226 demonstrates that there are other providers of home health
227 services in the area being served by the department's home health
228 agency, office, branch office or clinic that will be able to
229 provide adequate home health services to the residents of the area
230 if the department's home health agency, office, branch office or
231 clinic is closed or otherwise discontinues the providing of home
232 health services. This demonstration by the board that there are
233 other providers of adequate home health services in the area shall
234 be spread at length upon the minutes of the board at a regular or
235 special meeting of the board at least thirty (30) days before a
236 home health agency, office, branch office or clinic is proposed to
237 be closed or otherwise discontinue the providing of home health
238 services.

239 (c) The State Department of Health may undertake such
240 technical programs and activities as may be required for the
241 support and operation of those programs, including maintaining
242 physical, chemical, bacteriological and radiological laboratories,
243 and may make such diagnostic tests for diseases and tests for the



evaluation of health hazards as may be deemed necessary for the protection of the people of the state.

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

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

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

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

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

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

(7) Notwithstanding any other provision to the contrary, the State Department of Health shall have the following specific powers: The department shall issue a license to Alexander Milne



Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the construction, conversion, expansion and operation of not more than forty-five (45) beds for developmentally disabled adults who have been displaced from New Orleans, Louisiana, with the beds to be located in a certified ICF-MR facility in the City of Laurel, Mississippi. There shall be no prohibition or restrictions on participation in the Medicaid program for the person receiving the license under this subsection (7). The license described in this subsection shall expire five (5) years from the date of its issue. The license authorized by this subsection shall be issued upon the initial payment by the licensee of an application fee of Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of the license, to be paid as long as the licensee continues to operate. The initial and monthly licensing fees shall be deposited by the State Department of Health into the special fund created under Section 41-7-188.

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



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

321 (11) Notwithstanding any other provision to the contrary,
322 the State Department of Health shall have the following specific
323 powers: The State Department of Health is authorized and
324 empowered, to revoke, immediately, the license and require closure
325 of any institution for the aged or infirm, including any other
326 remedy less than closure to protect the health and safety of the
327 residents of said institution or the health and safety of the
328 general public.

329 (12) Notwithstanding any other provision to the contrary,
330 the State Department of Health shall have the following specific
331 powers: The State Department of Health is authorized and
332 empowered, to require the temporary detainment of individuals for
333 disease control purposes based upon violation of any order of the
334 State Health Officer, as provided in Section 41-23-5. For the
335 purpose of enforcing such orders of the State Health Officer,
336 persons employed by the department as investigators shall have
337 general arrest powers. All law enforcement officers are
338 authorized and directed to assist in the enforcement of such
339 orders of the State Health Officer.

340 **SECTION 2.** Section 41-23-5, Mississippi Code of 1972, is
341 amended as follows:

342 41-23-5. The State Department of Health shall have the
343 authority to investigate and control the causes of epidemic,



344 infectious and other disease affecting the public health,
345 including the authority to establish, maintain and enforce
346 isolation and quarantine, and in pursuance thereof, to exercise
347 such physical control over property and individuals as the
348 department may find necessary for the protection of the public
349 health. The State Department of Health is further authorized and
350 empowered to require the temporary detainment of individuals for
351 disease control purposes based upon violation of any order of the
352 State Health Officer. For the purpose of enforcing such orders of
353 the State Health Officer, persons employed by the department as
354 investigators shall have general arrest powers. All law
355 enforcement officers are authorized and directed to assist in the
356 enforcement of such orders of the State Health Officer. The State
357 Health Officer shall not release an order unless it has been
358 approved by the Governor.

359 **SECTION 3.** This act shall take effect and be in force from
360 and after July 1, 2023.

