

By: Representative Eubanks

To: Public Health and Human
Services

HOUSE BILL NO. 1036

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



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

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

27 (iv) To enter into, and to authorize the executive
28 officer to execute contracts, grants and cooperative agreements
29 with any federal or state agency or subdivision thereof, or any
30 public or private institution located inside or outside the State
31 of Mississippi, or any person, corporation or association in
32 connection with carrying out the provisions of this chapter, if it
33 finds those actions to be in the public interest and the contracts
34 or agreements do not have a financial cost that exceeds the
35 amounts appropriated for those purposes by the Legislature;

36 (v) To appoint, upon recommendation of the
37 Executive Officer of the State Department of Health, a Director of
38 Internal Audit who shall be either a Certified Public Accountant
39 or Certified Internal Auditor, and whose employment shall be
40 continued at the discretion of the board, and who shall report
41 directly to the board, or its designee; and

42 (vi) To discharge such other duties,
43 responsibilities and powers as are necessary to implement the
44 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) [Deleted]
213 (c) The State Department of Health may undertake such
214 technical programs and activities as may be required for the
215 support and operation of those programs, including maintaining
216 physical, chemical, bacteriological and radiological laboratories,
217 and may make such diagnostic tests for diseases and tests for the



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

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

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

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

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

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

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

240 (7) [Deleted]

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



243 powers: The State Department of Health is authorized to issue a
244 license to an existing home health agency for the transfer of a
245 county from that agency to another existing home health agency,
246 and to charge a fee for reviewing and making a determination on
247 the application for such transfer not to exceed one-half (1/2) of
248 the authorized fee assessed for the original application for the
249 home health agency, with the revenue to be deposited by the State
250 Department of Health into the special fund created under Section
251 41-7-188.

252 (9) [Deleted]

253 (10) Notwithstanding any other provision to the contrary,
254 the State Department of Health shall have the following specific
255 powers: The State Department of Health is authorized to extend
256 and renew any certificate of need that has expired, and to charge
257 a fee for reviewing and making a determination on the application
258 for such action not to exceed one-half (1/2) of the authorized fee
259 assessed for the original application for the certificate of need,
260 with the revenue to be deposited by the State Department of Health
261 into the special fund created under Section 41-7-188.

262 (11) Notwithstanding any other provision to the contrary,
263 the State Department of Health shall have the following specific
264 powers: The State Department of Health is authorized and
265 empowered, to revoke, immediately, the license and require closure
266 of any institution for the aged or infirm, including any other
267 remedy less than closure to protect the health and safety of the



residents of said institution or the health and safety of the general public.

(12) 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 and empowered, to require the temporary detainment of individuals for disease control purposes based upon violation of any order of the State Health Officer, as provided in Section 41-23-5. For the purpose of enforcing such orders of the State Health Officer, persons employed by the department as investigators shall have general arrest powers. All law enforcement officers are authorized and directed to assist in the enforcement of such orders of the State Health Officer.

(13) Additionally, the State Board of Health and the State Health Officer each are authorized and directed to study the status of health care, in its broadest sense, throughout the state. The study should include challenges such as access to care; the cost of care; indigent care; providing health care to the incarcerated; the availability of health care workers, paraprofessionals, and professionals; the effects of unhealthy lifestyle choices; the consequences of health care facilities locating in affluent and urban areas to the detriment of less affluent areas, small towns, and rural areas; and negative trends which may cause ill effects if they continue. The study shall also include opportunities to improve health care, such as greater



coordination among state agencies, local governments, and other entities which provide various types of health care; methods of increasing the health care workforce; and methods to increase the location of health care facilities in distressed areas, rural areas, and small towns. All state agencies, the Legislative Budget Office and the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) are directed to assist the department in developing this study. This provision does not by itself grant any additional power to the State Board of Health or the State Health Officer to require any entity to operate differently. It does, however, empower and direct them to obtain information and make recommendations, and it does require all entities to cooperate with the board and health officer as they seek information.

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

41-23-5. The State Department of Health shall have the authority to investigate and control the causes of epidemic, infectious and other disease affecting the public health, including the authority to establish, maintain and enforce isolation and quarantine, and in pursuance thereof, to exercise such physical control over property and individuals as the department may find necessary for the protection of the public health. The State Department of Health is further authorized and empowered to require the temporary detainment of individuals for



318 disease control purposes based upon violation of any order of the
319 State Health Officer. For the purpose of enforcing such orders of
320 the State Health Officer, persons employed by the department as
321 investigators shall have general arrest powers. All law
322 enforcement officers are authorized and directed to assist in the
323 enforcement of such orders of the State Health Officer. The State
324 Health Officer shall not release an order unless it has been
325 approved by the Governor.

326 **SECTION 3.** This act shall take effect and be in force from
327 and after July 1, 2025.

