

By: Representative Warren

To: Public Health and Human Services

HOUSE BILL NO. 553

1 AN ACT TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972,
2 WHICH REGULATES THE AUTHORITY OF THE STATE BOARD OF HEALTH TO
3 ISSUE RESTAURANT PERMITS; AND FOR RELATED PURPOSES.

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

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

7 41-3-15. (1) There shall be a State Department of Health
8 which shall be organized into such bureaus and divisions as are
9 considered necessary by the executive officer, and shall be
10 assigned appropriate functions as are required of the State Board
11 of Health by law, subject to the approval of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

70 (ii) To require that a permit be obtained from the
71 Department of Health before such persons begin operation. If any
72 such person fails to obtain the permit required herein, the State
73 Board of Health, after due notice and opportunity for a hearing,
74 may impose a monetary penalty not to exceed One Thousand Dollars
75 (\$1,000.00) for each violation. However, the department is not
76 authorized to impose a monetary penalty against any person whose
77 gross annual prepared food sales are less than Five Thousand
78 Dollars (\$5,000.00). Money collected by the board under this item
79 shall be deposited to the credit of the State General Fund of the
80 State Treasury. This subparagraph (ii) shall stand repealed on
81 July 1, 2009.

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

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

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

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

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

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

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

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

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

138 (b) The State Board of Health and State Department of
139 Health shall not be authorized to sell, transfer, alienate or
140 otherwise dispose of any of the home health agencies owned and
141 operated by the department on January 1, 1995, and shall not be
142 authorized to sell, transfer, assign, alienate or otherwise
143 dispose of the license of any of those home health agencies,
144 except upon the specific authorization of the Legislature by an
145 amendment to this section. However, this paragraph (b) shall not
146 prevent the board or the department from closing or terminating
147 the operation of any home health agency owned and operated by the
148 department, or closing or terminating any office, branch office or
149 clinic of any such home health agency, or otherwise discontinuing
150 the providing of home health services through any such home health
151 agency, office, branch office or clinic, if the board first
152 demonstrates that there are other providers of home health
153 services in the area being served by the department's home health
154 agency, office, branch office or clinic that will be able to
155 provide adequate home health services to the residents of the area
156 if the department's home health agency, office, branch office or

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

165 (c) The State Department of Health may undertake such
166 technical programs and activities as may be required for the
167 support and operation of such programs, including maintaining
168 physical, chemical, bacteriological and radiological laboratories,
169 and may make such diagnostic tests for diseases and tests for the
170 evaluation of health hazards as may be deemed necessary for the
171 protection of the people of the state.

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

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

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

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

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

184 (iv) To establish and collect fees to defray the
185 reasonable costs of administering the revolving fund or emergency
186 fund if the State Board of Health determines that such costs will
187 exceed the limitations established in the federal Safe Drinking
188 Water Act, as amended. The administration fees may be included in
189 loan amounts to loan recipients for the purpose of facilitating

190 payment to the board; however, such fees may not exceed five
191 percent (5%) of the loan amount.

192 **SECTION 2.** This act shall take effect and be in force from
193 and after July 1, 2007.