MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Thompson

To: Public Health and Human Services

HOUSE BILL NO. 749

AN ACT TO AMEND SECTION 71-1-1, MISSISSIPPI CODE OF 1972, TO EMPOWER THE STATE BOARD OF HEALTH TO ESTABLISH AN OFFICE OF WORKPLACE SAFETY AND HEALTH TO REGULATE OCCUPATIONAL HEALTH AND SAFETY STANDARDS IN THE STATE OF MISSISSIPPI AND TO PRESCRIBE ITS POWERS AND RESPONSIBILITIES; TO AMEND SECTIONS 71-1-25 AND 71-1-27, MISSISSIPPI CODE OF 1972, TO EMPOWER THE OFFICE OF WORKPLACE SAFETY AND HEALTH TO ENFORCE CHILD LABOR LAWS IN THE STATE OF MISSISSIPPI AND TO PRESCRIBE ITS POWERS AND RESPONSIBILITIES; TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-1-1, Mississippi Code of 1972, is amended as follows:

71-1-1. (1) The State Board of Health is empowered to establish an Office of Workplace Safety and Health within the Mississippi Department of Health to implement the programs prescribed under this section and by law.

(2) The Office of Workplace Safety and Health of the State Department of Health is authorized to establish an occupational health and safety program and is empowered:

(a) To employ such qualified personnel as staff to carry out the duties and responsibilities set forth herein;

(b) To develop and make available upon request to all employers of the state, including public employers, information, consultation and assistance related to safety and health laws, regulations, measures and standards; to participate and assist with training and educational programs, directed toward employee safety and disease prevention;

(c) To employ such personnel and procure such equipment as necessary to provide on-site consultative services related to assistance, information, education or training of employers and employees toward compliance with safety and health standards and toward the establishment of safety and health programs to prevent work-connected disabilities;

(d) To collect, compile and report statistics related to work-connected disabilities in Mississippi; such statistical work shall be performed in cooperation with other statistic-gathering agencies with the federal and state governments. Such statistical reports as may be available shall be made known to employers and employees *** * ***;

(e) To receive such federal or state grants and appropriations as available to further the education, training and assistance to the employers and employees of Mississippi in preventing work-connected disabilities *** * ***;

(f) Nothing in this section shall be construed as authorizing the *** * *** Office of Workplace Safety and Health to administer or enforce in any way the Federal Occupational Safety

and Health Act, known as OSHA, however, the Office of Workplace Safety and Health may coordinate its inspections, activities and employee functions with those of the Federal OSHA.

(3) In addition to such other duties and powers as may be conferred by law, the Office of Workplace Safety and Health of the Department of Health shall have the power, jurisdiction and authority:

(a) To make and promulgate such rules, or changes in rules, as it may deem advisable for the prevention of accidents or the prevention of industrial or occupational diseases in every employment or place of employment, and such rule, or changes in rules, for the construction, repair and maintenance of places of employment, places of public assembly, and public buildings as it may deem advisable to render them safe. The division may appoint committees composed of employers, employees and experts to suggest rules or changes therein;

(b) To order such reasonable changes in the construction, maintenance and repair of places of employment as shall render them safe; and

(c) To require the performance of any act necessary for the protection of life, health and safety of employees.

SECTION 2. Section 71-1-25, Mississippi Code of 1972, is amended as follows:

71-1-25. (1) It shall be the duty of the Office of Workplace Safety and Health of the Department of Health to inspect

employers under its jurisdiction for compliance with the child labor provisions of the Mississippi Code of 1972.

(2) It shall be the duty of the * * * Office of Workplace Safety and Health to visit, without notice of * * * its intention to do so, all mills, canneries, workshops, factories, or manufacturing establishments employing child labor * * * at least twice each year, or oftener if requested by the sheriff, and to promptly report to the sheriff any unsanitary condition of the premises, any child or children afflicted with infectious, contagious, or communicable diseases, or whose physical condition renders such child or children incapacitated to perform the work required of them. The sheriff shall promptly remove such child or children from such mill, cannery, workshop, factory, or manufacturing establishment, and order the premises put in sanitary condition. The judgment of the * * * Office of Workplace Safety and Health as to the physical condition of the children and the sanitary condition of the premises shall be final and conclusive.

(3) Every employer shall furnish employment which shall be reasonably safe for the employees therein and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe and shall do every other thing reasonably necessary to protect the life, health, safety and welfare of such employees; provided that, as used in this chapter, the term "safe"

or "safety" as applied to any employment or place of employment shall include conditions and methods of sanitation and hygiene reasonably necessary for the protection of the life, health, safety and welfare of employees.

(4) Every employer and every owner of a place of employment, place of public assembly, or public building, now or hereafter constructed, shall so construct, repair and maintain the same as to render it reasonably safe.

SECTION 3. Section 71-1-27, Mississippi Code of 1972, is amended as follows:

71-1-27. Any officer, manager, or superintendent of any mill, cannery, workshop, factory, or manufacturing establishment in which child labor is employed who shall fail or refuse to give true and correct information demanded of him by any officer hereinbefore directed to inspect such mill, cannery, workshop, factory, or manufacturing establishment, or who shall fail or refuse to obey any lawful order of the Office of Workplace Safety and Health or the sheriff *** * *** of the county in which said mill, cannery, workshop, factory, or manufacturing establishment is located for carrying out the purpose of this chapter, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than *** * *** One Hundred Dollars ($100.00) nor more than *** * *** One Thousand Dollars ($1,000.00).

SECTION 4. Section 41-3-15, Mississippi Code of 1972, is amended as follows:

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

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

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

(ii) To adopt, modify, repeal and promulgate, after due notice and hearing, and enforce rules and regulations 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.

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

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

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

(viii) To prepare and deliver to the Chairmen of the Public Health and Welfare/Human Services Committees of the Senate and House on or before January 1 of each year, a plan for monitoring infant mortality in Mississippi and a full report of the work of the department on reducing Mississippi's infant

mortality and morbidity rates and improving the status of maternal and infant health; and

(ix) To enter into 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 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.

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

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

(a) To make investigations and inquiries with respect 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.

(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;

(vii) Accidental deaths and injuries;

(viii) Child care licensure;

(ix) Radiological health;

(x) Dental health;

(xi) Milk sanitation;

(xii) Occupational safety and health, and compliance with child labor laws, acting through its Office of Workplace Safety and Health;

(xiii) Food, vector control and general sanitation;

(xiv) Protection of drinking water;

(xv) Sanitation in food handling establishments open to the public;

(xvi) Registration of births and deaths and other vital events;

(xvii) Such public health programs and services as may be assigned to the State Board of Health by the Legislature or by executive order; and

(xviii) Regulation of domestic and imported fish for human consumption.

(b) The State Board of Health and State Department of Health shall not be authorized to sell, transfer, alienate or otherwise dispose of any of the home health agencies owned and operated by the department on January 1, 1995, and shall not be authorized to sell, transfer, assign, alienate or otherwise dispose of the license of any of those home health agencies, except upon the specific authorization of the Legislature by an amendment to this section. However, this paragraph (b) shall not prevent the board or the department from closing or terminating the operation of any home health agency owned and operated by the department, or closing or terminating any office, branch office or clinic of any such home health agency, or otherwise discontinuing the providing of home health services through any such home health agency, office, branch office or clinic, if the board first demonstrates that there are other providers of home health services in the area being served by the department's home health agency, office, branch office or clinic that will be able to provide adequate home health services to the residents of the area if the department's home health agency, office, branch office or clinic is closed or otherwise discontinues the providing of home

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

(c) The State Department of Health may undertake such technical programs and activities as may be required for the support and operation of those programs, including maintaining physical, chemical, bacteriological and radiological laboratories, 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, with the revenue to be deposited by the State Department of Health into the special fund created under Section 41-7-188.

(11) 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 revoke, immediately, the license and require closure of any institution for the aged or infirm, including any other 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.

SECTION 5. This act shall take effect and be in force from and after July 1, 2021.