

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 855

1 AN ACT TO AMEND SECTION 41-7-202, MISSISSIPPI CODE OF 1972,
2 TO GIVE THE CHANCERY COURT THE DISCRETION TO GRANT A STAY OF
3 PROCEEDINGS FOR CERTIFICATE OF NEED DECISIONS ISSUED BY THE STATE
4 DEPARTMENT OF HEALTH; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 41-7-202, Mississippi Code of 1972, is
7 amended as follows:

8 41-7-202. (1) There shall be a "stay of proceedings" of any
9 written decision of the State Department of Health pertaining to a
10 certificate of need for a home health agency, as defined in
11 Section 41-7-173(h)(ix), for a period of thirty (30) days from the
12 date of that decision. The stay of proceedings shall expire at
13 the termination of thirty (30) days; however, no license to
14 operate any such home health agency that is the subject of the
15 decision shall be issued by the licensing agency, and no
16 certification for such home health agency to participate in the
17 Title XVIII or Title XIX programs of the Social Security Act shall
18 be granted until all statutory appeals have been exhausted or the
19 time for such appeals has expired. * * *

20 (2) The Chancery Court of the First Judicial District of
21 Hinds County, Mississippi, in its discretion and based upon its
22 review of the merits of the case, may cause a "stay of
23 proceedings" of any written decision of the State Department of
24 Health to any party appealing any final order of the State
25 Department of Health pertaining to a certificate of need for any
26 health care facility as defined in Section 41-7-173(h), with the
27 exception of any home health agency as defined in Section

28 41-7-173(h)(ix). The decision of the court shall consider whether
29 (a) any undue prejudice would be caused to the parties; (b) any
30 party would be subject to temporary or permanent harm, including
31 financial loss; and (c) any public interest would be served. The
32 stay of proceedings shall expire at the termination of thirty (30)
33 days from the date of the issue from the court; however, no
34 license to operate any service, facility or any proposal that is
35 the subject of the decision shall be issued by the licensing
36 agency.

37 SECTION 2. This act shall take effect and be in force from
38 and after July 1, 1999.