

By: Senator(s) Bean

To: Public Health and  
Welfare

SENATE BILL NO. 2255  
(As Passed the Senate)

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

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