

By: Representatives Steverson, Tullos,  
Lancaster

To: Public Health and Human  
Services

HOUSE BILL NO. 1110

1 AN ACT TO AMEND SECTION 41-75-1, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF FREESTANDING EMERGENCY ROOM TO INCLUDE  
3 RURAL EMERGENCY HOSPITALS; TO PROVIDE THAT IN ORDER TO BE ELIGIBLE  
4 FOR LICENSURE, THE EMERGENCY ROOMS AND HOSPITALS SHALL BE LOCATED  
5 AT LEAST 15 MILES FROM THE NEAREST HOSPITAL-BASED EMERGENCY ROOM  
6 IN ANY RURAL COMMUNITY WHICH THE FEDERAL CMMS HAS DESIGNATED AS A  
7 MEDICALLY UNDERSERVED AREA IN A COUNTY WITHOUT AN EMERGENCY  
8 HOSPITAL THAT IS OPEN 24 HOURS A DAY AND THE OWNER OR MANAGER IS A  
9 HOSPITAL OPERATOR OF AN EXISTING RURAL MISSISSIPPI HOSPITAL AT THE  
10 TIME OF LICENSURE; TO BRING FORWARD SECTION 41-75-13, MISSISSIPPI  
11 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR  
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 41-75-1, Mississippi Code of 1972, is  
15 amended as follows:

16 41-75-1. For the purpose of this chapter:

17 (a) "Ambulatory surgical facility" means a publicly or  
18 privately owned institution that is primarily organized,  
19 constructed, renovated or otherwise established for the purpose of  
20 providing elective surgical treatment of "outpatients" whose  
21 recovery, under normal and routine circumstances, will not require  
22 "inpatient" care. The facility defined in this paragraph does not  
23 include the offices of private physicians or dentists, whether



24 practicing individually or in groups, but does include  
25 organizations or facilities primarily engaged in that outpatient  
26 surgery, whether using the name "ambulatory surgical facility" or  
27 a similar or different name. That organization or facility, if in  
28 any manner considered to be operated or owned by a hospital or a  
29 hospital holding, leasing or management company, either for profit  
30 or not for profit, is required to comply with all licensing agency  
31 ambulatory surgical licensure standards governing a "hospital  
32 affiliated" facility as adopted under Section 41-9-1 et seq.,  
33 provided that the organization or facility does not intend to seek  
34 federal certification as an ambulatory surgical facility as  
35 provided for at 42 CFR, Parts 405 and 416. If the organization or  
36 facility is to be operated or owned by a hospital or a hospital  
37 holding, leasing or management company and intends to seek federal  
38 certification as an ambulatory facility, then the facility is  
39 considered to be "freestanding" and must comply with all licensing  
40 agency ambulatory surgical licensure standards governing a  
41 "freestanding" facility.

42 If the organization or facility is to be owned or operated by  
43 an entity or person other than a hospital or hospital holding,  
44 leasing or management company, then the organization or facility  
45 must comply with all licensing agency ambulatory surgical facility  
46 standards governing a "freestanding" facility.

47 (b) "Hospital affiliated" ambulatory surgical facility  
48 means a separate and distinct organized unit of a hospital or a



49 building owned, leased, rented or utilized by a hospital and  
50 located in the same county in which the hospital is located, for  
51 the primary purpose of performing ambulatory surgery procedures.  
52 The facility is not required to be separately licensed under this  
53 chapter and may operate under the hospital's license in compliance  
54 with all applicable requirements of Section 41-9-1 et seq.

55 (c) "Freestanding" ambulatory surgical facility means a  
56 separate and distinct facility or a separate and distinct  
57 organized unit of a hospital owned, leased, rented or utilized by  
58 a hospital or other persons for the primary purpose of performing  
59 ambulatory surgery procedures. The facility must be separately  
60 licensed as defined in this section and must comply with all  
61 licensing standards promulgated by the licensing agency under this  
62 chapter regarding a "freestanding" ambulatory surgical facility.  
63 Further, the facility must be a separate, identifiable entity and  
64 must be physically, administratively and financially independent  
65 and distinct from other operations of any other health facility,  
66 and shall maintain a separate organized medical and administrative  
67 staff. Furthermore, once licensed as a "freestanding" ambulatory  
68 surgical facility, the facility shall not become a component of  
69 any other health facility without securing a certificate of need  
70 to do that.

71 (d) "Ambulatory surgery" means surgical procedures that  
72 are more complex than office procedures performed under local  
73 anesthesia, but less complex than major procedures requiring



74 prolonged postoperative monitoring and hospital care to ensure  
75 safe recovery and desirable results. General anesthesia is used  
76 in most cases. The patient must arrive at the facility and expect  
77 to be discharged on the same day. Ambulatory surgery shall only  
78 be performed by physicians or dentists licensed to practice in the  
79 State of Mississippi.

80 (e) "Abortion" means the use or prescription of any  
81 instrument, medicine, drug or any other substances or device to  
82 terminate the pregnancy of a woman known to be pregnant with an  
83 intention other than to increase the probability of a live birth,  
84 to preserve the life or health of the child after live birth or to  
85 remove a dead fetus. Abortion procedures after the first  
86 trimester shall only be performed at a Level I abortion facility  
87 or an ambulatory surgical facility or hospital licensed to perform  
88 that service.

89 (f) "Abortion facility" means a facility operating  
90 substantially for the purpose of performing abortions and is a  
91 separate identifiable legal entity from any other health care  
92 facility. Abortions shall only be performed by physicians  
93 licensed to practice in the State of Mississippi. All physicians  
94 associated with the abortion facility must have admitting  
95 privileges at a local hospital and staff privileges to replace  
96 local hospital on-staff physicians. All physicians associated  
97 with an abortion facility must be board certified or eligible in  
98 obstetrics and gynecology, and a staff member trained in CPR shall



99 always be present at the abortion facility when it is open. The  
100 term "abortion facility" includes physicians' offices that are  
101 used substantially for the purpose of performing abortions. An  
102 abortion facility operates substantially for the purpose of  
103 performing abortions if any of the following conditions are met:

104 (i) The abortion facility is a provider for  
105 performing ten (10) or more abortion procedures per calendar month  
106 during any month of a calendar year, or one hundred (100) or more  
107 in a calendar year.

108 (ii) The abortion facility, if operating less than  
109 twenty (20) days per calendar month, is a provider for performing  
110 ten (10) or more abortion procedures, or performing a number of  
111 abortion procedures that would be equivalent to ten (10)  
112 procedures per month, if the facility were operating twenty (20)  
113 or more days per calendar month, in any month of a calendar year.

114 (iii) The abortion facility holds itself out to  
115 the public as an abortion provider by advertising by any public  
116 means, such as newspaper, telephone directory, magazine or  
117 electronic media, that it performs abortions.

118 (iv) The facility applies to the licensing agency  
119 for licensure as an abortion facility.

120 (g) "Licensing agency" means the State Department of  
121 Health.

122 (h) "Operating" an abortion facility means that the  
123 facility is open for any period of time during a day and has on



124 site at the facility or on call a physician licensed to practice  
125 in the State of Mississippi available to provide abortions.

126 An abortion facility may apply to be licensed as a Level I  
127 facility or a Level II facility by the licensing agency. Level II  
128 abortion facilities shall be required to meet minimum standards  
129 for abortion facilities as established by the licensing agency.  
130 Level I abortion facilities shall be required to meet minimum  
131 standards for abortion facilities and minimum standards for  
132 ambulatory surgical facilities as established by the licensing  
133 agency.

134 Any abortion facility that begins operation after June 30,  
135 1996, shall not be located within one thousand five hundred  
136 (1,500) feet from the property on which any church, school or  
137 kindergarten is located. An abortion facility shall not be in  
138 violation of this paragraph if it is in compliance with this  
139 paragraph on the date it begins operation and the property on  
140 which a church, school or kindergarten is located within one  
141 thousand five hundred (1,500) feet from the facility.

142 (i) "Freestanding emergency room," also identified as a  
143 "rural emergency hospital," is a facility open twenty-four (24)  
144 hours a day for the treatment of urgent and emergent medical  
145 conditions which is not located on a hospital campus. In order to  
146 be eligible for licensure under this chapter, the freestanding  
147 emergency room or rural emergency hospital shall be located at  
148 least fifteen (15) miles from the nearest hospital-based emergency



149 room in any rural community \* \* \* which the federal CMMS \* \* \* has  
150 previously designated \* \* \* as a medically underserved area in a  
151 county without an emergency hospital care that is open twenty-four  
152 (24) hours a day and the owner or manager is a hospital operator  
153 of an existing rural Mississippi hospital at the time of  
154 licensure.

155 (j) "Post-acute residential brain injury rehabilitation  
156 facility" is a facility containing no more than twelve (12) beds  
157 providing medically directed long-term but nonacute rehabilitation  
158 to patients who have acquired brain injury. In order to be  
159 eligible for licensure under this chapter, the post-acute  
160 residential brain injury rehabilitation facility shall be located  
161 at least twenty-five (25) miles from the nearest acute care  
162 rehabilitation hospital and at least five (5) miles from the  
163 boundaries of any municipality having a population of ten thousand  
164 (10,000) or more, according to the most recent federal decennial  
165 census, at the time that facility is established.

166 **SECTION 2.** Section 41-75-13, Mississippi Code of 1972, is  
167 brought forward as follows:

168 41-75-13. The licensing agency shall adopt, amend,  
169 promulgate and enforce rules, regulations and standards, including  
170 classifications, with respect to ambulatory surgical facilities  
171 and abortion facilities, freestanding emergency rooms and  
172 post-acute residential brain injury rehabilitation facilities  
173 licensed, or which may be licensed, to further the accomplishment



174 of the purpose of this chapter in protecting and promoting the  
175 health, safety and welfare of the public by ensuring adequate care  
176 of individuals receiving services from such facilities. The  
177 licensing agency also shall adopt, amend, promulgate and enforce  
178 rules, regulations and standards with respect to the enforcement  
179 of the informed consent requirements of Sections 41-41-31 through  
180 41-41-39 at abortion facilities. Such rules, regulations and  
181 standards for freestanding emergency rooms shall include a patient  
182 transfer policy under which the freestanding emergency room enters  
183 into an agreement with a general hospital for a protocol for  
184 patient transfers. Such rules, regulations and standards shall be  
185 adopted and promulgated by the licensing agency in accordance with  
186 the provisions of Section 25-43-1 et seq., and shall be recorded  
187 and indexed in a book to be maintained by the licensing agency in  
188 its main office in the State of Mississippi, entitled "Rules and  
189 Regulations for Operation of Ambulatory Surgical Facilities and  
190 Abortion Facilities, Freestanding Emergency Room Facilities and  
191 Post-Acute Residential Brain Injury Rehabilitation Facilities."  
192 The book shall be open and available to all ambulatory surgical  
193 facilities and abortion facilities, freestanding emergency rooms  
194 and post-acute residential brain injury rehabilitation facilities  
195 and the public during regular business hours.

196       **SECTION 3.** This act shall take effect and be in force from  
197 and after July 1, 2022.

