

House Amendments to Senate Bill No. 2735

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

10 41-75-1. For the purpose of this chapter:

11 (a) "Ambulatory surgical facility" means a publicly or
12 privately owned institution that is primarily organized,
13 constructed, renovated or otherwise established for the purpose of
14 providing elective surgical treatment of "outpatients" whose
15 recovery, under normal and routine circumstances, will not require
16 "inpatient" care. The facility defined in this paragraph does not
17 include the offices of private physicians or dentists, whether
18 practicing individually or in groups, but does include
19 organizations or facilities primarily engaged in that outpatient
20 surgery, whether using the name "ambulatory surgical facility" or
21 a similar or different name. That organization or facility, if in
22 any manner considered to be operated or owned by a hospital or a
23 hospital holding, leasing or management company, either for profit
24 or not for profit, is required to comply with all licensing agency

25 ambulatory surgical licensure standards governing a "hospital
26 affiliated" facility as adopted under Section 41-9-1 et seq.,
27 provided that the organization or facility does not intend to seek
28 federal certification as an ambulatory surgical facility as
29 provided for at 42 CFR, Parts 405 and 416. If the organization or
30 facility is to be operated or owned by a hospital or a hospital
31 holding, leasing or management company and intends to seek federal
32 certification as an ambulatory facility, then the facility is
33 considered to be "freestanding" and must comply with all licensing
34 agency ambulatory surgical licensure standards governing a
35 "freestanding" facility.

36 If the organization or facility is to be owned or operated by
37 an entity or person other than a hospital or hospital holding,
38 leasing or management company, then the organization or facility
39 must comply with all licensing agency ambulatory surgical facility
40 standards governing a "freestanding" facility.

41 (b) "Hospital affiliated" ambulatory surgical facility
42 means a separate and distinct organized unit of a hospital or a
43 building owned, leased, rented or utilized by a hospital and
44 located in the same county in which the hospital is located, for
45 the primary purpose of performing ambulatory surgery procedures.
46 The facility is not required to be separately licensed under this
47 chapter and may operate under the hospital's license in compliance
48 with all applicable requirements of Section 41-9-1 et seq.

49 (c) "Freestanding" ambulatory surgical facility means a
50 separate and distinct facility or a separate and distinct

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

65 (d) "Ambulatory surgery" means surgical procedures that
66 are more complex than office procedures performed under local
67 anesthesia, but less complex than major procedures requiring
68 prolonged postoperative monitoring and hospital care to ensure
69 safe recovery and desirable results. General anesthesia is used
70 in most cases. The patient must arrive at the facility and expect
71 to be discharged on the same day. Ambulatory surgery shall only
72 be performed by physicians or dentists licensed to practice in the
73 State of Mississippi.

74 (e) "Abortion" means the use or prescription of any
75 instrument, medicine, drug or any other substances or device to
76 terminate the pregnancy of a woman known to be pregnant with an

intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus. Abortion procedures after the first trimester shall only be performed at a Level I abortion facility or an ambulatory surgical facility or hospital licensed to perform that service.

(f) "Abortion facility" means a facility operating substantially for the purpose of performing abortions and is a separate identifiable legal entity from any other health care facility. Abortions shall only be performed by physicians licensed to practice in the State of Mississippi. All physicians associated with the abortion facility must have admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians. All physicians associated with an abortion facility must be board certified or eligible in obstetrics and gynecology, and a staff member trained in CPR shall always be present at the abortion facility when it is open. The term "abortion facility" includes physicians' offices that are used substantially for the purpose of performing abortions. An abortion facility operates substantially for the purpose of performing abortions if any of the following conditions are met:

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

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

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

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

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

(h) "Operating" an abortion facility means that the facility is open for any period of time during a day and has on site at the facility or on call a physician licensed to practice in the State of Mississippi available to provide abortions.

An abortion facility may apply to be licensed as a Level I facility or a Level II facility by the licensing agency. Level II abortion facilities shall be required to meet minimum standards for abortion facilities as established by the licensing agency. Level I abortion facilities shall be required to meet minimum standards for abortion facilities and minimum standards for ambulatory surgical facilities as established by the licensing agency.

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

(i) "Freestanding emergency room" is a facility open twenty-four (24) hours a day for the treatment of urgent and emergent medical conditions which is not located on a hospital campus. In order to be eligible for licensure under this chapter, the freestanding emergency room shall be located at least fifteen (15) miles from the nearest hospital-based emergency room in any rural community where the federal CMMS had previously designated a rural hospital as a critical access hospital and that designation has been revoked.

(j) "Post-acute residential brain injury rehabilitation facility" is a facility containing no more than twelve (12) beds providing medically directed long-term but nonacute rehabilitation to patients who have acquired brain injury. In order to be eligible for licensure under this chapter, the post-acute residential brain injury rehabilitation facility shall be located at least twenty-five (25) miles from the nearest acute care rehabilitation hospital and at least five (5) miles from the boundaries of any municipality having a population of ten thousand

(10,000) or more, according to the most recent federal decennial census, at the time that facility is established.

(k) "Pilot freestanding emergency room" is a facility open twenty-four (24) hours a day for the treatment of urgent and emergent medical conditions that is not located on a hospital campus. In order to be eligible for licensure under this chapter, the pilot freestanding emergency room shall be located at least fifteen (15) miles from the nearest hospital-based emergency room in a county without emergency hospital care that is open twenty-four (24) hours a day.

SECTION 2. Section 41-75-13, Mississippi Code of 1972, is amended as follows:

41-75-13. (1) The licensing agency shall adopt, amend, promulgate and enforce rules, regulations and standards, including classifications, with respect to ambulatory surgical facilities and abortion facilities, freestanding emergency rooms and post-acute residential brain injury rehabilitation facilities licensed, or which may be licensed, to further the accomplishment of the purpose of this chapter in protecting and promoting the health, safety and welfare of the public by ensuring adequate care of individuals receiving services from such facilities. The licensing agency also shall adopt, amend, promulgate and enforce rules, regulations and standards with respect to the enforcement of the informed consent requirements of Sections 41-41-31 through 41-41-39 at abortion facilities. Such rules, regulations and standards for freestanding emergency rooms shall include a patient

transfer policy under which the freestanding emergency room enters into an agreement with a general hospital for a protocol for patient transfers. Such rules, regulations and standards shall be adopted and promulgated by the licensing agency in accordance with the provisions of Section 25-43-1 et seq., and shall be recorded and indexed in a book to be maintained by the licensing agency in its main office in the State of Mississippi, entitled "Rules and Regulations for Operation of Ambulatory Surgical Facilities and Abortion Facilities, Freestanding Emergency Room Facilities and Post-Acute Residential Brain Injury Rehabilitation Facilities." The book shall be open and available to all ambulatory surgical facilities and abortion facilities, freestanding emergency rooms and post-acute residential brain injury rehabilitation facilities and the public during regular business hours.

(2) The licensing agency shall not issue licenses for more than five (5) pilot freestanding emergency rooms. The licensing agency shall adopt criteria for determining which applicants will have priority for receiving a license if there are more than five (5) applications for pilot freestanding emergency room licenses.

SECTION 3. This act shall take effect and be in force from and after July 1, 2022, and shall stand repealed on June 30, 2022.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO AMEND SECTION 41-75-1, MISSISSIPPI CODE OF 1972, TO CREATE A DEFINITION FOR PILOT FREESTANDING EMERGENCY ROOMS FOR THE PURPOSE OF LICENSURE; TO AMEND SECTION 41-75-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL NOT

5 ISSUE LICENSES FOR MORE THAN FIVE PILOT FREESTANDING EMERGENCY
6 ROOMS; AND FOR RELATED PURPOSES.

HR12\SB2735A.J

Andrew Ketchings
Clerk of the House of Representatives