

By: Senator(s) Hill

To: Public Health and
Welfare

SENATE BILL NO. 2583

1 AN ACT TO REPEAL SECTIONS 41-7-171 THROUGH 41-7-209,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI HEALTH CARE
3 CERTIFICATE OF NEED LAW OF 1979; TO AMEND SECTIONS 23-15-625,
4 25-41-7, 35-1-19, 41-3-15, 41-4-18, 41-9-11, 41-9-23, 41-9-68,
5 41-9-209, 41-9-210, 41-71-7, 41-71-19, 41-73-5, 41-75-1, 41-75-5,
6 41-75-9, 41-75-25, 41-77-1, 41-77-5, 41-77-21, 41-77-23, 41-77-25,
7 43-11-9, 43-11-19, 43-13-117.5 AND 57-117-5, MISSISSIPPI CODE OF
8 1972, AND TO REPEAL SECTION 41-9-311, MISSISSIPPI CODE OF 1972, TO
9 CONFORM TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Sections 41-7-171, 41-7-173, 41-7-175, 41-7-183,
12 41-7-185, 41-7-187, 41-7-188, 41-7-189, 41-7-190, 41-7-191,
13 41-7-193, 41-7-195, 41-7-197, 41-7-201, 41-7-202, 41-7-205,
14 41-7-207 and 41-7-209, Mississippi Code of 1972, which are the
15 Mississippi Health Care Certificate of Need Law of 1979, are
16 repealed.

17 **SECTION 2.** Section 23-15-625, Mississippi Code of 1972, is
18 amended as follows:

19 23-15-625. (1) The registrar shall be responsible for
20 providing applications for absentee voting as provided in this
21 section. At least sixty (60) days before any election in which



22 absentee voting is provided for by law, the registrar shall
23 provide a sufficient number of applications. In the event a
24 special election is called and set at a date which makes it
25 impractical or impossible to prepare applications for absent
26 elector's ballot sixty (60) days before the election, the
27 registrar shall provide applications as soon as practicable after
28 the election is called. The registrar shall fill in the date of
29 the particular election on the application for which the
30 application will be used.

31 (2) The registrar shall be authorized to disburse
32 applications for absentee ballots to any qualified elector within
33 the county where he or she serves. Any person who presents to the
34 registrar an oral or written request for an absentee ballot
35 application for a voter entitled to vote absentee by mail, other
36 than the elector who seeks to vote by absentee ballot, shall, in
37 the presence of the registrar, sign the application and print on
38 the application his or her name and address and the name of the
39 elector for whom the application is being requested in the place
40 provided for on the application for that purpose. However, if for
41 any reason such person is unable to write the information
42 required, then the registrar shall write the information on a
43 printed form which has been prescribed by the Secretary of State.
44 The form shall provide a place for such person to place his or her
45 mark after the form has been filled out by the registrar.



46 (3) It shall be unlawful for any person to solicit absentee
47 ballot applications or absentee ballots for persons staying in any
48 skilled nursing facility * * * unless the person soliciting the
49 absentee ballot applications or absentee ballots is:

50 (a) A family member of the person staying in the
51 skilled nursing facility; or

52 (b) A person designated by the person for whom the
53 absentee ballot application or absentee ballot is sought, the
54 registrar or the deputy registrar.

55 As used in this subsection, "family member" means a spouse,
56 parent, grandparent, sibling, adult child, grandchild or legal
57 guardian.

58 (4) The registrar in the county wherein a voter is qualified
59 to vote upon receiving by mail the envelope containing the
60 absentee ballots shall keep an accurate list of all persons
61 preparing such ballots. The list shall be kept in a conspicuous
62 place accessible to the public near the entrance to the
63 registrar's office. The registrar shall also furnish to each
64 precinct manager a list of the names of all persons in each
65 respective precinct voting absentee by mail and in person to be
66 posted in a conspicuous place at the polling place for public
67 notice. The application on file with the registrar and the
68 envelopes containing the ballots that voters mailed to the
69 registrar shall be kept by the registrar in his or her office in a
70 secure location. At the time such boxes are delivered to the



71 election commissioners or managers, the registrar shall also turn
72 over a list of all such persons who have voted and whose mailed
73 ballots are in the registrar's office.

74 (5) The registrar shall also be authorized to mail one (1)
75 application to any qualified elector of the county, who is
76 eligible to vote by absentee ballot, for use in a particular
77 election.

78 (6) The registrar shall process all applications for
79 absentee ballots by using the Statewide Election Management
80 System. The registrar shall account for all absentee ballots
81 delivered to and received by mail as well as those who voted
82 absentee in person from qualified voters by processing such
83 ballots using the Statewide Election Management System.

84 **SECTION 3.** Section 25-41-7, Mississippi Code of 1972, is
85 amended as follows:

86 25-41-7. (1) Any public body may enter into executive
87 session for the transaction of public business; however, all
88 meetings of any public body shall commence as an open meeting, and
89 an affirmative vote of three-fifths (3/5) of all members present
90 shall be required to declare an executive session.

91 (2) The procedure to be followed by any public body in
92 declaring an executive session shall be as follows: Any member
93 shall have the right to request by motion a closed determination
94 upon the issue of whether or not to declare an executive session.
95 The motion, by majority vote, shall require the meeting to be



96 closed for a preliminary determination of the necessity for
97 executive session. No other business shall be transacted until
98 the discussion of the nature of the matter requiring executive
99 session has been completed and a vote, as required in subsection
100 (1) hereof, has been taken on the issue.

101 (3) An executive session shall be limited to matters allowed
102 to be exempted from open meetings by subsection (4) of this
103 section. The reason for holding an executive session shall be
104 stated in an open meeting, and the reason so stated shall be
105 recorded in the minutes of the meeting. Nothing in this section
106 shall be construed to require that any meeting be closed to the
107 public, nor shall any executive session be used to circumvent or
108 to defeat the purposes of this chapter.

109 (4) A public body may hold an executive session pursuant to
110 this section for one or more of the following reasons:

111 (a) Transaction of business and discussion of personnel
112 matters relating to the job performance, character, professional
113 competence, or physical or mental health of a person holding a
114 specific position, or matters relating to the terms of any
115 potential or current employment or services agreement with any
116 physicians or other employees of public hospitals, including any
117 discussion of any person applying for medical staff privileges or
118 membership with a public hospital.

119 (b) Strategy sessions or negotiations with respect to
120 prospective litigation, litigation or issuance of an appealable



121 order when an open meeting would have a detrimental effect on the
122 litigating position of the public body.

123 (c) Transaction of business and discussion regarding
124 the report, development or course of action regarding security
125 personnel, plans or devices.

126 (d) Investigative proceedings by any public body
127 regarding allegations of misconduct or violation of law.

128 (e) Any body of the Legislature which is meeting on
129 matters within the jurisdiction of that body.

130 (f) Cases of extraordinary emergency which would pose
131 immediate or irrevocable harm or damage to persons or property, or
132 both, within the jurisdiction of the public body.

133 (g) Transaction of business and discussion regarding
134 the prospective purchase, sale or leasing of lands.

135 (h) Discussions between a school board and individual
136 students who attend a school within the jurisdiction of the school
137 board or the parents or teachers of the students regarding
138 problems of the students or their parents or teachers.

139 (i) Transaction of business and discussion concerning
140 the preparation of tests for admission to practice in recognized
141 professions.

142 (j) Transaction of business and discussions or
143 negotiations regarding the location, relocation or expansion of a
144 business, medical service or an industry.



145 (k) Transaction of business and discussions regarding
146 employment or job performance of a person in a specific position
147 or termination of an employee holding a specific position. The
148 exemption provided by this paragraph includes transaction of
149 business and discussion in executive session by the board of
150 trustees of a public hospital regarding any employee or medical
151 staff member or applicant for medical staff privileges and any
152 such individual's credentialing, health, performance, salary,
153 raises or disciplinary action. The exemption provided by this
154 paragraph includes the right to enter into executive session
155 concerning a line item in a budget which might affect the
156 termination of an employee or employees. All other budget items
157 shall be considered in open meetings and final budgetary adoption
158 shall not be taken in executive session.

159 (l) Discussions regarding material or data exempt from
160 the Mississippi Public Records Act of 1983 pursuant to Section
161 25-11-121.

162 (m) Transaction of business and discussion regarding
163 prospective strategic business decisions of public hospitals,
164 including, without limitation, decisions to open a new service
165 line * * * or implement capital improvements * * *.

166 (n) Transaction of business of the boards of trustees
167 of public hospitals that would require discussion of any
168 identifiable patient information, including without limitation,



169 patient complaints, patients' accounts, patients receiving charity
170 care, or treatment that could be identified to a patient.

171 (o) Investigative discussions, investigative
172 strategies, probative strategies related to identifiable instances
173 of human trafficking or commercial sexual exploitation, and
174 discussions involving locations of shelters or safe-houses for
175 victims of human trafficking or commercial sexual exploitation.

176 (p) Transaction of business of committees,
177 subcommittees or boards that would require discussion of any
178 identifiable information of victims of human trafficking or
179 children under eighteen years old who are victims of commercial
180 sexual exploitation.

181 (5) The total vote on the question of entering into an
182 executive session shall be recorded and spread upon the minutes of
183 the public body.

184 (6) Any vote whereby an executive session is declared shall
185 be applicable only to that particular meeting on that particular
186 day.

187 **SECTION 4.** Section 35-1-19, Mississippi Code of 1972, is
188 amended as follows:

189 35-1-19. There is * * * authorized to be established by the
190 State Veterans Affairs Board, the Mississippi State Veterans Home
191 on a site to be determined by the State Veterans Affairs Board,
192 with the approval of the Bureau of Building, Grounds and Real
193 Property Management of the * * * Department of Finance and



194 Administration, when funds are made available for such purpose by
195 any agency of the federal government or other sources. The object
196 and purpose of the establishment of the Mississippi State Veterans
197 Home shall be to provide domiciliary care and other related
198 services for eligible veterans of the State of Mississippi.

199 One or more additional veterans homes or domiciliaries are
200 hereby authorized to be established by the State Veterans Affairs
201 Board on sites in northern, central or southern Mississippi, to be
202 determined by the State Veterans Affairs Board, with the approval
203 of the Department of Finance and Administration, when funds are
204 made available for such purpose by any agency of the federal
205 government or other sources. The Veterans Affairs Board shall
206 give the three (3) regions, northern, southern and central
207 priority as to where the veterans home shall be located, with the
208 northern region having first priority, the southern region having
209 the next level priority and the central region being third in
210 order of priority. The object and purpose of the establishment of
211 such additional homes or domiciliaries shall be to provide
212 domiciliary care and other related services for eligible veterans
213 of the State of Mississippi. * * *

214 **SECTION 5.** Section 41-3-15, Mississippi Code of 1972, is
215 amended as follows:

216 41-3-15. (1) (a) There shall be a State Department of
217 Health.



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

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

223 (ii) To adopt, modify, repeal and promulgate,
224 after due notice and hearing, and enforce rules and regulations
225 implementing or effectuating the powers and duties of the
226 department under any and all statutes within the department's
227 jurisdiction, and as the board may deem necessary;

228 (iii) To apply for, receive, accept and expend any
229 federal or state funds or contributions, gifts, trusts, devises,
230 bequests, grants, endowments or funds from any other source or
231 transfers of property of any kind;

232 (iv) To enter into, and to authorize the executive
233 officer to execute contracts, grants and cooperative agreements
234 with any federal or state agency or subdivision thereof, or any
235 public or private institution located inside or outside the State
236 of Mississippi, or any person, corporation or association in
237 connection with carrying out the provisions of this chapter, if it
238 finds those actions to be in the public interest and the contracts
239 or agreements do not have a financial cost that exceeds the
240 amounts appropriated for those purposes by the Legislature;

241 (v) To appoint, upon recommendation of the
242 Executive Officer of the State Department of Health, a Director of



243 Internal Audit who shall be either a Certified Public Accountant
244 or Certified Internal Auditor, and whose employment shall be
245 continued at the discretion of the board, and who shall report
246 directly to the board, or its designee; and

247 (vi) To discharge such other duties,
248 responsibilities and powers as are necessary to implement the
249 provisions of this chapter.

250 (c) The Executive Officer of the State Department of
251 Health shall have the following powers and duties:

252 (i) To administer the policies of the State Board
253 of Health within the authority granted by the board;

254 (ii) To supervise and direct all administrative
255 and technical activities of the department, except that the
256 department's internal auditor shall be subject to the sole
257 supervision and direction of the board;

258 (iii) To organize the administrative units of the
259 department in accordance with the plan adopted by the board and,
260 with board approval, alter the organizational plan and reassign
261 responsibilities as he or she may deem necessary to carry out the
262 policies of the board;

263 (iv) To coordinate the activities of the various
264 offices of the department;

265 (v) To employ, subject to regulations of the State
266 Personnel Board, qualified professional personnel in the subject
267 matter or fields of each office, and such other technical and



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

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

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

284 (viii) To prepare and deliver to the Chairmen of
285 the Public Health and Welfare/Human Services Committees of the
286 Senate and House on or before January 1 of each year, a plan for
287 monitoring infant mortality in Mississippi and a full report of
288 the work of the department on reducing Mississippi's infant
289 mortality and morbidity rates and improving the status of maternal
290 and infant health; and

291 (ix) To enter into contracts, grants and
292 cooperative agreements with any federal or state agency or



293 subdivision thereof, or any public or private institution located
294 inside or outside the State of Mississippi, or any person,
295 corporation or association in connection with carrying out the
296 provisions of this chapter, if he or she finds those actions to be
297 in the public interest and the contracts or agreements do not have
298 a financial cost that exceeds the amounts appropriated for those
299 purposes by the Legislature. Each contract or agreement entered
300 into by the executive officer shall be submitted to the board
301 before its next meeting.

302 (2) The State Board of Health shall have the authority to
303 establish an Office of Rural Health within the department. The
304 duties and responsibilities of this office shall include the
305 following:

306 (a) To collect and evaluate data on rural health
307 conditions and needs;

308 (b) To engage in policy analysis, policy development
309 and economic impact studies with regard to rural health issues;

310 (c) To develop and implement plans and provide
311 technical assistance to enable community health systems to respond
312 to various changes in their circumstances;

313 (d) To plan and assist in professional recruitment and
314 retention of medical professionals and assistants; and

315 (e) To establish information clearinghouses to improve
316 access to and sharing of rural health care information.



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

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

322 (a) To make investigations and inquiries with respect
323 to the causes of disease and death, and to investigate the effect
324 of environment, including conditions of employment and other
325 conditions that may affect health, and to make such other
326 investigations as it may deem necessary for the preservation and
327 improvement of health.

328 (b) To make such sanitary investigations as it may,
329 from time to time, deem necessary for the protection and
330 improvement of health and to investigate nuisance questions that
331 affect the security of life and health within the state.

332 (c) To direct and control sanitary and quarantine
333 measures for dealing with all diseases within the state possible
334 to suppress same and prevent their spread.

335 (d) To obtain, collect and preserve such information
336 relative to mortality, morbidity, disease and health as may be
337 useful in the discharge of its duties or may contribute to the
338 prevention of disease or the promotion of health in this state.

339 (e) To charge and collect reasonable fees for health
340 services, including immunizations, inspections and related
341 activities, and the board shall charge fees for those services;



342 however, if it is determined that a person receiving services is
343 unable to pay the total fee, the board shall collect any amount
344 that the person is able to pay. Any increase in the fees charged
345 by the board under this paragraph shall be in accordance with the
346 provisions of Section 41-3-65.

347 (f) (i) To establish standards for, issue permits and
348 exercise control over, any cafes, restaurants, food or drink
349 stands, sandwich manufacturing establishments, and all other
350 establishments, other than churches, church-related and private
351 schools, and other nonprofit or charitable organizations, where
352 food or drink is regularly prepared, handled and served for pay;
353 and

354 (ii) To require that a permit be obtained from the
355 Department of Health before those persons begin operation. If any
356 such person fails to obtain the permit required in this
357 subparagraph (ii), the State Board of Health, after due notice and
358 opportunity for a hearing, may impose a monetary penalty not to
359 exceed One Thousand Dollars (\$1,000.00) for each violation.
360 However, the department is not authorized to impose a monetary
361 penalty against any person whose gross annual prepared food sales
362 are less than Five Thousand Dollars (\$5,000.00). Money collected
363 by the board under this subparagraph (ii) shall be deposited to
364 the credit of the State General Fund of the State Treasury.



365 (g) To promulgate rules and regulations and exercise
366 control over the production and sale of milk pursuant to the
367 provisions of Sections 75-31-41 through 75-31-49.

368 (h) On presentation of proper authority, to enter into
369 and inspect any public place or building where the State Health
370 Officer or his representative deems it necessary and proper to
371 enter for the discovery and suppression of disease and for the
372 enforcement of any health or sanitary laws and regulations in the
373 state.

374 (i) To conduct investigations, inquiries and hearings,
375 and to issue subpoenas for the attendance of witnesses and the
376 production of books and records at any hearing when authorized and
377 required by statute to be conducted by the State Health Officer or
378 the State Board of Health.

379 (j) To promulgate rules and regulations, and to collect
380 data and information, on (i) the delivery of services through the
381 practice of telemedicine; and (ii) the use of electronic records
382 for the delivery of telemedicine services.

383 (k) To enforce and regulate domestic and imported fish
384 as authorized under Section 69-7-601 et seq.

385 (5) (a) The State Board of Health shall have the authority,
386 in its discretion, to establish programs to promote the public
387 health, to be administered by the State Department of Health.
388 Specifically, those programs may include, but shall not be limited
389 to, programs in the following areas:



- 390 (i) Maternal and child health;
- 391 (ii) Family planning;
- 392 (iii) Pediatric services;
- 393 (iv) Services to crippled and disabled children;
- 394 (v) Control of communicable and noncommunicable
- 395 disease;
- 396 (vi) Chronic disease;
- 397 (vii) Accidental deaths and injuries;
- 398 (viii) Child care licensure;
- 399 (ix) Radiological health;
- 400 (x) Dental health;
- 401 (xi) Milk sanitation;
- 402 (xii) Occupational safety and health;
- 403 (xiii) Food, vector control and general
- 404 sanitation;
- 405 (xiv) Protection of drinking water;
- 406 (xv) Sanitation in food handling establishments
- 407 open to the public;
- 408 (xvi) Registration of births and deaths and other
- 409 vital events;
- 410 (xvii) Such public health programs and services as
- 411 may be assigned to the State Board of Health by the Legislature or
- 412 by executive order; and
- 413 (xviii) Regulation of domestic and imported fish
- 414 for human consumption.



415 (b) The State Board of Health and State Department of
416 Health shall not be authorized to sell, transfer, alienate or
417 otherwise dispose of any of the home health agencies owned and
418 operated by the department on January 1, 1995, and shall not be
419 authorized to sell, transfer, assign, alienate or otherwise
420 dispose of the license of any of those home health agencies,
421 except upon the specific authorization of the Legislature by an
422 amendment to this section. However, this paragraph (b) shall not
423 prevent the board or the department from closing or terminating
424 the operation of any home health agency owned and operated by the
425 department, or closing or terminating any office, branch office or
426 clinic of any such home health agency, or otherwise discontinuing
427 the providing of home health services through any such home health
428 agency, office, branch office or clinic, if the board first
429 demonstrates that there are other providers of home health
430 services in the area being served by the department's home health
431 agency, office, branch office or clinic that will be able to
432 provide adequate home health services to the residents of the area
433 if the department's home health agency, office, branch office or
434 clinic is closed or otherwise discontinues the providing of home
435 health services. This demonstration by the board that there are
436 other providers of adequate home health services in the area shall
437 be spread at length upon the minutes of the board at a regular or
438 special meeting of the board at least thirty (30) days before a
439 home health agency, office, branch office or clinic is proposed to



440 be closed or otherwise discontinue the providing of home health
441 services.

442 (c) The State Department of Health may undertake such
443 technical programs and activities as may be required for the
444 support and operation of those programs, including maintaining
445 physical, chemical, bacteriological and radiological laboratories,
446 and may make such diagnostic tests for diseases and tests for the
447 evaluation of health hazards as may be deemed necessary for the
448 protection of the people of the state.

449 (6) (a) The State Board of Health shall administer the
450 local governments and rural water systems improvements loan
451 program in accordance with the provisions of Section 41-3-16.

452 (b) The State Board of Health shall have authority:

453 (i) To enter into capitalization grant agreements
454 with the United States Environmental Protection Agency, or any
455 successor agency thereto;

456 (ii) To accept capitalization grant awards made
457 under the federal Safe Drinking Water Act, as amended;

458 (iii) To provide annual reports and audits to the
459 United States Environmental Protection Agency, as may be required
460 by federal capitalization grant agreements; and

461 (iv) To establish and collect fees to defray the
462 reasonable costs of administering the revolving fund or emergency
463 fund if the State Board of Health determines that those costs will
464 exceed the limitations established in the federal Safe Drinking



465 Water Act, as amended. The administration fees may be included in
466 loan amounts to loan recipients for the purpose of facilitating
467 payment to the board; however, those fees may not exceed five
468 percent (5%) of the loan amount.

469 (7) Notwithstanding any other provision to the contrary, the
470 State Department of Health shall have the following specific
471 powers: The department shall issue a license to Alexander Milne
472 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
473 construction, conversion, expansion and operation of not more than
474 forty-five (45) beds for developmentally disabled adults who have
475 been displaced from New Orleans, Louisiana, with the beds to be
476 located in a certified ICF-MR facility in the City of Laurel,
477 Mississippi. There shall be no prohibition or restrictions on
478 participation in the Medicaid program for the person receiving the
479 license under this subsection (7). The license described in this
480 subsection shall expire five (5) years from the date of its issue.
481 The license authorized by this subsection shall be issued upon the
482 initial payment by the licensee of an application fee of
483 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
484 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
485 the license, to be paid as long as the licensee continues to
486 operate. The initial and monthly licensing fees shall be
487 deposited by the State Department of Health into the special fund
488 created under Section 41-7-188.



489 (8) Notwithstanding any other provision to the contrary, the
490 State Department of Health shall have the following specific
491 powers: The State Department of Health is authorized to issue a
492 license to an existing home health agency for the transfer of a
493 county from that agency to another existing home health agency,
494 and to charge a fee for reviewing and making a determination on
495 the application for such transfer not to exceed one-half (1/2) of
496 the authorized fee assessed for the original application for the
497 home health agency * * *.

498 * * *

499 (* * *9) Notwithstanding any other provision to the
500 contrary, the State Department of Health shall have the following
501 specific powers: The State Department of Health is authorized to
502 extend and renew any certificate of need that has expired, and to
503 charge a fee for reviewing and making a determination on the
504 application for such action not to exceed one-half (1/2) of the
505 authorized fee assessed for the original application for the
506 certificate of need, with the revenue to be deposited by the State
507 Department of Health into the special fund created under Section
508 41-7-188.

509 (* * *10) Notwithstanding any other provision to the
510 contrary, the State Department of Health shall have the following
511 specific powers: The State Department of Health is authorized and
512 empowered, to revoke, immediately, the license and require closure
513 of any institution for the aged or infirm, including any other



514 remedy less than closure to protect the health and safety of the
515 residents of said institution or the health and safety of the
516 general public.

517 (* * *11) Notwithstanding any other provision to the
518 contrary, the State Department of Health shall have the following
519 specific powers: The State Department of Health is authorized and
520 empowered, to require the temporary detainment of individuals for
521 disease control purposes based upon violation of any order of the
522 State Health Officer, as provided in Section 41-23-5. For the
523 purpose of enforcing such orders of the State Health Officer,
524 persons employed by the department as investigators shall have
525 general arrest powers. All law enforcement officers are
526 authorized and directed to assist in the enforcement of such
527 orders of the State Health Officer.

528 **SECTION 6.** Section 41-4-18, Mississippi Code of 1972, is
529 amended as follows:

530 41-4-18. (1) Notwithstanding * * * any other section of
531 law, the Department of Mental Health shall have the authority to
532 contract with private and/or public entities to transfer beds
533 within Intermediate Care Facilities for the Mentally Retarded
534 owned and operated by the Department of Mental Health to locations
535 owned and operated by private and/or public entities for the
536 purpose of serving individuals with intellectual disabilities in
537 the settings most appropriate to meet their needs.



538 (2) Any license granted to the Department of Mental Health
539 by the Department of Health for the operation of transferred
540 Intermediate Care Facility for the Mentally Retarded beds shall
541 remain in the name of the Department of Mental Health * * *.

542 **SECTION 7.** Section 41-9-11, Mississippi Code of 1972, is
543 amended as follows:

544 41-9-11. Upon receipt of an application for license and the
545 license fee, the licensing agency shall issue a license if the
546 applicant and hospital facilities meet the requirements
547 established under Sections 41-9-1 through 41-9-35 * * *. A
548 license, unless suspended or revoked, shall be renewable annually,
549 upon filing by the licensee, and approval by the licensing agency
550 of an annual report upon such uniform dates and containing such
551 information in such form as the licensing agency prescribes by
552 regulation and upon paying the annual fee for such license as
553 determined by the schedule and provisions of Section 41-9-9. Each
554 license shall be issued only for the premises and persons or
555 governmental units named in the application and shall not be
556 transferable or assignable except with the written approval of the
557 licensing agency. Licenses shall be posted in a conspicuous place
558 on the licensed premises.

559 **SECTION 8.** Section 41-9-23, Mississippi Code of 1972, is
560 amended as follows:

561 41-9-23. Information received by the licensing agency
562 through filed reports, inspection, or as otherwise authorized



563 under Sections 41-9-1 through 41-9-35 shall not be disclosed
564 publicly in such manner as to identify individuals, except in a
565 proceeding involving the questions of licensure; however, the
566 licensing agency may utilize statistical data concerning types of
567 services and the utilization of these services for hospitals in
568 performing the * * * duties imposed upon it by * * * Section
569 41-9-29.

570 **SECTION 9.** Section 41-9-68, Mississippi Code of 1972, is
571 amended as follows:

572 41-9-68. (1) Except as otherwise provided in subsection (2)
573 of this section, records maintained by public hospitals shall be
574 exempt from the provisions of the Mississippi Public Records Act
575 of 1983.

576 (2) The following records of public hospitals shall not be
577 exempt from the Mississippi Public Records Act of 1983:

578 (a) The official minutes of the board of trustees of a
579 public hospital;

580 (b) Financial reports not otherwise exempt that are
581 required by state or federal statute or regulation to be filed
582 with the owner of the public hospital or with any other agency of
583 state or federal government; and

584 (c) Any other record maintained by a public hospital
585 that does not fall within the definition of the term "hospital
586 records" as that term is defined in Section 41-9-61, except for
587 the following records, which shall be exempt:



588 (i) Records directly relating to the terms of any
589 potential or current employment or services agreement with any
590 physicians or other employees of a public hospital, including any
591 application for medical staff privileges or membership with a
592 public hospital;

593 (ii) Records directly relating to the
594 credentialing, health, performance, salary, raises or disciplinary
595 action of any employee or medical staff member or applicant for
596 medical staff privileges at a public hospital;

597 (iii) Records directly relating to prospective
598 strategic business decisions of a public hospital, including
599 without limitation, decisions to open a new service line * * * or
600 implement capital improvements * * *; and

601 (iv) Records directly relating to individual
602 patient billing and collection information.

603 **SECTION 10.** Section 41-9-209, Mississippi Code of 1972, is
604 amended as follows:

605 41-9-209. (1) Any hospital is authorized to seek
606 designation as a critical access hospital. Subject to federal
607 law, there shall be no requirement or limitation regarding the
608 distance that a critical access hospital must be located from
609 another hospital. The bed-size limit for a critical access
610 hospital is twenty-five (25) operational acute care beds, and the
611 average maximum length of stay for patients in a critical access
612 hospital is ninety-six (96) hours, unless a longer period is



613 required because of inclement weather or other emergency
614 conditions. In the event the critical access hospital is a swing
615 bed facility, any of the twenty-five (25) acute care beds allowed
616 in a critical access hospital may be used for the provision of
617 extended care services or acute care inpatient services so long as
618 the furnishing of such services does not exceed twenty-five (25)
619 beds and so long as the hospital does not seek Medicaid
620 reimbursement for more than fifteen (15) acute care inpatient
621 beds.

622 (2) A critical access hospital (a) must make available
623 twenty-four-hour emergency care services, as described in the
624 state rural health care plan, for ensuring access to emergency
625 care services in the rural area served by the critical access
626 hospital, and (b) must be a member of a rural health network. Any
627 hospital that has a distinct-part skilled nursing facility,
628 certified under Title XVIII of the federal Social Security Act, at
629 the time it applies for designation as a critical access hospital,
630 may continue its operation of the distinct-part skilled nursing
631 facility and is not required to count the beds in the
632 distinct-part skilled nursing facility for purposes of the allowed
633 twenty-five (25) acute care inpatient beds.

634 * * * (3) A critical access hospital may establish a
635 distinct-part psychiatric unit and a distinct-part rehabilitation
636 unit, each of which must be certified under Title XVIII of the
637 federal Social Security Act and each of which may consist of no



638 more than ten (10) beds. No bed in the critical access hospital's
639 distinct-part psychiatric unit or distinct-part rehabilitation
640 unit shall be counted for purposes of the twenty-five (25) bed
641 limitation. Each distinct-part unit in a critical access hospital
642 must comply with all applicable state licensure laws and federal
643 certification laws.

644 **SECTION 11.** Section 41-9-210, Mississippi Code of 1972, is
645 amended as follows:

646 41-9-210. If a hospital seeks a new license from the
647 department in order to be designated as a critical access
648 hospital, the department shall maintain a record of the acute care
649 beds of that hospital that have been delicensed as a result of
650 that designation and continue counting those beds as part of the
651 state's total acute care bed count for health care planning
652 purposes. If a critical access hospital later desires to
653 relicense some or all of its delicensed acute care beds, it shall
654 notify the department of its intent to increase the number of its
655 licensed acute care beds. The department shall survey the
656 hospital within thirty (30) days of that notice and, if
657 appropriate, issue the hospital a new license reflecting the new
658 contingent of beds. * * *

659 This section shall apply to all hospitals that are designated
660 as critical access hospitals on July 1, 2003, and all hospitals
661 that may become designated as critical access hospitals after July
662 1, 2003.



663 **SECTION 12.** Section 41-71-7, Mississippi Code of 1972, is
664 amended as follows:

665 41-71-7. Upon receipt of an application for a license and
666 the license fee, and a determination by the licensing agency that
667 the application is in compliance with * * * the provisions of this
668 chapter, such license shall be issued. A license, unless
669 suspended or revoked, shall be renewable annually upon payment by
670 the licensee of a renewal fee of One Thousand Dollars (\$1,000.00)
671 and upon approval by the licensing agency of an annual report,
672 required to be submitted by the licensee, containing such
673 information in such form and at such time as the licensing agency
674 prescribes by rule or regulation. Any increase in the fee charged
675 by the licensing agency under this section shall be in accordance
676 with the provisions of Section 41-3-65. Each license shall be
677 issued only for the home health agency and person or persons or
678 other legal entity or entities named in the application and shall
679 not be transferable or assignable except with the written approval
680 of the licensing agency. Licenses shall be posted in a
681 conspicuous place in the designated business office of the
682 licensee. Each licensee shall designate, in writing, one (1)
683 individual person as the responsible party for the conducting of
684 the business of the home health agency with the licensing agency.

685 **SECTION 13.** Section 41-71-19, Mississippi Code of 1972, is
686 amended as follows:



687 41-71-19. Information received by the licensing agency
688 through filed reports, inspection, or as otherwise authorized
689 under this chapter, shall not be disclosed publicly in such manner
690 as to identify individuals, except in proceedings involving the
691 question of licensure; however, the licensing agency may utilize
692 statistical data concerning types of services and the utilization
693 of those services for home health care agencies in performing
694 the * * * duties imposed upon it by * * * regulations necessarily
695 promulgated for participation in the Medicare or Medicaid
696 programs.

697 **SECTION 14.** Section 41-73-5, Mississippi Code of 1972, is
698 amended as follows:

699 41-73-5. When used in this act, unless the context requires
700 a different definition, the following terms shall have the
701 following meanings:

702 (a) "Act" means the Mississippi Hospital Equipment and
703 Facilities Authority Act.

704 (b) "Authority" means the Mississippi Hospital
705 Equipment and Facilities Authority created by this act and any
706 successor to its functions.

707 (c) "Bonds" means bonds, notes or other evidences of
708 indebtedness of the authority issued pursuant to this act,
709 including refunding bonds.



710 (d) "Cost" as applied to hospital equipment means any
711 and all costs of such hospital equipment and, without limiting the
712 generality of the foregoing, shall include the following:

713 (i) All costs of the acquisition, repair,
714 restoration, reconditioning, refinancing or installation of any
715 such hospital equipment and all costs incident or related thereto;

716 (ii) The cost of any property interest in such
717 hospital equipment including an option to purchase or leasehold
718 interest;

719 (iii) The cost of architectural, engineering,
720 legal and related services; the cost of the preparation of plans,
721 specifications, studies, surveys and estimates of cost and of
722 revenue; and all other expenses necessary or incident to planning,
723 providing or determining the need for or the feasibility and
724 practicability of such hospital equipment; and the cost of
725 providing or establishing a reasonable reserve fund for the
726 payment of principal and interest on bonds;

727 (iv) The cost of financing charges, including
728 premiums or prepayment penalties, if any, and interest accrued
729 prior to the acquisition and installation or refinancing of such
730 hospital equipment and after such acquisition and installation or
731 refinancing and start-up costs related to hospital equipment;

732 (v) Any and all costs paid or incurred in
733 connection with the financing of such hospital equipment,
734 including out-of-pocket expenses, the cost of financing, legal,



735 accounting, financial advisory and consulting fees, expenses and
736 disbursements; the cost of any policy of insurance; the cost of
737 printing, engraving and reproduction services; and the cost of the
738 initial or acceptance fee of any trustee or paying agent;

739 (vi) All direct or indirect costs of the authority
740 incurred in connection with providing such hospital equipment,
741 including, without limitation, reasonable sums to reimburse the
742 authority for time spent by its agents or employees with respect
743 to providing such hospital equipment and the financing thereof;
744 and

745 (vii) Any and all costs paid or incurred for the
746 administration of any program for the purchase or lease of or the
747 making of loans for hospital equipment, by the authority and any
748 program for the sale or lease of or the making of loans for such
749 hospital equipment to any participating hospital institution.

750 (e) "Cost," as applied to hospital facilities, means
751 any and all costs of such hospital facilities and, without
752 limiting the generality of the foregoing, shall include the
753 following:

754 (i) All costs of the establishment, demolition,
755 site development of new and rehabilitated buildings,
756 rehabilitation, reconstruction repair, erection, building,
757 construction, remodeling, adding to and furnishing of any such
758 hospital facilities and all costs incident or related thereto;



759 (ii) The cost of acquiring any property interest
760 in such hospital facilities including the purchase thereof, the
761 cost of an option to purchase or the cost of any leasehold
762 interest;

763 (iii) The cost of architectural, engineering,
764 legal and related services; the cost of the preparation of plans,
765 specifications, studies, surveys and estimates of cost and of
766 revenue; all other expenses necessary or incident to planning,
767 providing or determining the need for or the feasibility and
768 practicability of such hospital facilities or the acquisition
769 thereof; and the cost of providing or establishing a reasonable
770 reserve fund for the payment of principal of and interest on
771 bonds;

772 (iv) The cost of financing charges, including
773 premiums or prepayment penalties, if any, and interest accrued
774 prior to the acquisition and completion or refinancing of such
775 hospital facilities and after such acquisition and completion or
776 refinancing and start-up costs related to hospital facilities;

777 (v) Any and all costs paid or incurred in
778 connection with the financing of such hospital facilities,
779 including out-of-pocket expenses, the cost of financing, legal,
780 accounting, financial advisory and consulting fees, expenses and
781 disbursement; the cost of any policy of insurance; the cost of
782 printing, engraving and reproduction services; and the cost of the
783 initial or acceptance fee of any trustee or paying agent;



784 (vi) All direct or indirect costs of the authority
785 incurred in connection with providing such hospital facilities,
786 including, without limitation, reasonable sums to reimburse the
787 authority for time spent by its agents or employees with respect
788 to providing such hospital facilities and the financing thereof;

789 (vii) Any and all costs paid or incurred for the
790 administration of any program for the purchase or lease of or the
791 making of loans for hospital facilities, by the authority and any
792 program for the sale or lease of or the making of loans for such
793 hospital facilities to any participating hospital institution; and

794 (viii) The cost of providing for the payment or
795 the making provision for the payment of, by the appropriate
796 escrowing of monies or securities, the principal of and interest
797 on which when due will be adequate to make such payment, any
798 indebtedness encumbering the revenues or property of a
799 participating hospital institution, whether such payment is to be
800 effected by redemption of such indebtedness prior to maturity or
801 not.

802 (f) "Hospital equipment" means any personal property
803 which is found and determined by the authority to be required or
804 necessary or helpful for medical care, research, training or
805 teaching, any one (1) or all, in hospital facilities located in
806 the state, irrespective of whether such property is in existence
807 at the time of, or is to be provided after the making of, such
808 finding. * * *



809 (g) "Hospital facility" or "hospital facilities" means
810 buildings and structures of any and all types used or useful, in
811 the discretion of the authority, for providing any types of care
812 to the sick, wounded, infirmed, needy, mentally incompetent or
813 elderly and shall include, without limiting the generality of the
814 foregoing, out-patient clinics, laboratories, laundries, nurses',
815 doctors' or interns' residences, administration buildings, office
816 buildings, facilities for research directly involved with hospital
817 care, maintenance, storage or utility facilities, parking lots,
818 and garages and all necessary, useful, or related furnishings, and
819 appurtenances and all lands necessary or convenient as a site for
820 the foregoing.

821 (h) "Participating hospital institution" or "hospital
822 institution" means a public or private corporation, association,
823 foundation, trust, cooperative, agency, body politic, or other
824 person or organization which provides or operates or proposes to
825 provide or operate hospital facilities not for profit, and which,
826 pursuant to the provisions of this act, contracts with the
827 authority for the financing or refinancing of the lease or other
828 acquisition of hospital equipment or hospital facilities, or both.

829 (i) "State" means the State of Mississippi.

830 The use of singular terms herein shall also include the
831 plural of such term and the use of a plural term herein shall also
832 include the singular of such term unless the context clearly
833 requires a different connotation.



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

836 41-75-1. For the purpose of this chapter:

837 (a) "Ambulatory surgical facility" means a publicly or
838 privately owned institution that is primarily organized,
839 constructed, renovated or otherwise established for the purpose of
840 providing elective surgical treatment of "outpatients" whose
841 recovery, under normal and routine circumstances, will not require
842 "inpatient" care. The facility defined in this paragraph does not
843 include the offices of private physicians or dentists, whether
844 practicing individually or in groups, but does include
845 organizations or facilities primarily engaged in that outpatient
846 surgery, whether using the name "ambulatory surgical facility" or
847 a similar or different name. That organization or facility, if in
848 any manner considered to be operated or owned by a hospital or a
849 hospital holding, leasing or management company, either for profit
850 or not for profit, is required to comply with all licensing agency
851 ambulatory surgical licensure standards governing a "hospital
852 affiliated" facility as adopted under Section 41-9-1 et seq.,
853 provided that the organization or facility does not intend to seek
854 federal certification as an ambulatory surgical facility as
855 provided for at 42 CFR, Parts 405 and 416. If the organization or
856 facility is to be operated or owned by a hospital or a hospital
857 holding, leasing or management company and intends to seek federal
858 certification as an ambulatory facility, then the facility is



859 considered to be "freestanding" and must comply with all licensing
860 agency ambulatory surgical licensure standards governing a
861 "freestanding" facility.

862 If the organization or facility is to be owned or operated by
863 an entity or person other than a hospital or hospital holding,
864 leasing or management company, then the organization or facility
865 must comply with all licensing agency ambulatory surgical facility
866 standards governing a "freestanding" facility.

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

875 (c) "Freestanding" ambulatory surgical facility means a
876 separate and distinct facility or a separate and distinct
877 organized unit of a hospital owned, leased, rented or utilized by
878 a hospital or other persons for the primary purpose of performing
879 ambulatory surgery procedures. The facility must be separately
880 licensed as defined in this section and must comply with all
881 licensing standards promulgated by the licensing agency under this
882 chapter regarding a "freestanding" ambulatory surgical facility.
883 Further, the facility must be a separate, identifiable entity and



884 must be physically, administratively and financially independent
885 and distinct from other operations of any other health facility,
886 and shall maintain a separate organized medical and administrative
887 staff. * * *

888 (d) "Ambulatory surgery" means surgical procedures that
889 are more complex than office procedures performed under local
890 anesthesia, but less complex than major procedures requiring
891 prolonged postoperative monitoring and hospital care to ensure
892 safe recovery and desirable results. General anesthesia is used
893 in most cases. The patient must arrive at the facility and expect
894 to be discharged on the same day. Ambulatory surgery shall only
895 be performed by physicians or dentists licensed to practice in the
896 State of Mississippi.

897 (e) "Abortion" means the use or prescription of any
898 instrument, medicine, drug or any other substances or device to
899 terminate the pregnancy of a woman known to be pregnant with an
900 intention other than to increase the probability of a live birth,
901 to preserve the life or health of the child after live birth or to
902 remove a dead fetus. Abortion procedures after the first
903 trimester shall only be performed at a Level I abortion facility
904 or an ambulatory surgical facility or hospital licensed to perform
905 that service.

906 (f) "Abortion facility" means a facility operating
907 substantially for the purpose of performing abortions and is a
908 separate identifiable legal entity from any other health care



909 facility. Abortions shall only be performed by physicians
910 licensed to practice in the State of Mississippi. All physicians
911 associated with the abortion facility must have admitting
912 privileges at a local hospital and staff privileges to replace
913 local hospital on-staff physicians. All physicians associated
914 with an abortion facility must be board certified or eligible in
915 obstetrics and gynecology, and a staff member trained in CPR shall
916 always be present at the abortion facility when it is open. The
917 term "abortion facility" includes physicians' offices that are
918 used substantially for the purpose of performing abortions. An
919 abortion facility operates substantially for the purpose of
920 performing abortions if any of the following conditions are met:

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

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

931 (iii) The abortion facility holds itself out to
932 the public as an abortion provider by advertising by any public



933 means, such as newspaper, telephone directory, magazine or
934 electronic media, that it performs abortions.

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

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

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

943 An abortion facility may apply to be licensed as a Level I
944 facility or a Level II facility by the licensing agency. Level II
945 abortion facilities shall be required to meet minimum standards
946 for abortion facilities as established by the licensing agency.
947 Level I abortion facilities shall be required to meet minimum
948 standards for abortion facilities and minimum standards for
949 ambulatory surgical facilities as established by the licensing
950 agency.

951 Any abortion facility that begins operation after June 30,
952 1996, shall not be located within one thousand five hundred
953 (1,500) feet from the property on which any church, school or
954 kindergarten is located. An abortion facility shall not be in
955 violation of this paragraph if it is in compliance with this
956 paragraph on the date it begins operation and the property on



957 which a church, school or kindergarden is located within one
958 thousand five hundred (1,500) feet from the facility.

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

968 (j) "Post-acute residential brain injury rehabilitation
969 facility" is a facility containing no more than twelve (12) beds
970 providing medically directed long-term but nonacute rehabilitation
971 to patients who have acquired brain injury. In order to be
972 eligible for licensure under this chapter, the post-acute
973 residential brain injury rehabilitation facility shall be located
974 at least twenty-five (25) miles from the nearest acute care
975 rehabilitation hospital and at least five (5) miles from the
976 boundaries of any municipality having a population of ten thousand
977 (10,000) or more, according to the most recent federal decennial
978 census, at the time that facility is established.

979 (k) "Pilot freestanding emergency room" is a facility
980 open twenty-four (24) hours a day for the treatment of urgent and
981 emergent medical conditions and that is not located on a hospital



982 campus. In order to be eligible for licensure under this chapter,
983 the pilot freestanding emergency room shall be located at least
984 fifteen (15) miles from the nearest hospital-based emergency room
985 in a county without emergency hospital care that is open
986 twenty-four (24) hours a day.

987 **SECTION 16.** Section 41-75-5, Mississippi Code of 1972, is
988 amended as follows:

989 41-75-5. No person * * * or other entity, acting severally
990 or jointly with any other person or entity, shall establish,
991 conduct, operate or maintain an ambulatory surgical facility or an
992 abortion facility or a freestanding emergency room or a post-acute
993 residential brain injury rehabilitation facility in this state
994 without a license under this chapter.

995 **SECTION 17.** Section 41-75-9, Mississippi Code of 1972, is
996 amended as follows:

997 41-75-9. Upon receipt of an application for license and the
998 license fee, the licensing agency shall issue a license if the
999 applicant and the institutional facilities meet the requirements
1000 established under this chapter * * *. A license, unless suspended
1001 or revoked, shall be renewable annually upon payment of a renewal
1002 fee of Three Thousand Dollars (\$3,000.00), which shall be paid to
1003 the licensing agency, and upon filing by the licensee and approval
1004 by the licensing agency of an annual report upon such uniform
1005 dates and containing such information in such form as the
1006 licensing agency requires. Any increase in the fee charged by the



1007 licensing agency under this section shall be in accordance with
1008 the provisions of Section 41-3-65. Each license shall be issued
1009 only for the premises and person or persons named in the
1010 application and shall not be transferable or assignable. Licenses
1011 shall be posted in a conspicuous place on the licensed premises.

1012 **SECTION 18.** Section 41-75-25, Mississippi Code of 1972, is
1013 amended as follows:

1014 41-75-25. Any person or persons or other entity or entities
1015 establishing, managing or operating an ambulatory surgical
1016 facility or conducting the business of an ambulatory surgical
1017 facility without the required license, or which otherwise violate
1018 any of the provisions of this chapter or the "Mississippi Health
1019 Care Commission Law of 1979," as amended, or the rules,
1020 regulations or standards promulgated in furtherance of any law in
1021 which the * * * licensing agency has authority therefor shall be
1022 subject to the following penalties and sanctions * * *:

1023 (a) Revocation of the license of the ambulatory
1024 surgical facility or a designated section, component or service
1025 thereof; or

1026 (b) Nonlicensure of a specific or designated service
1027 offered by the ambulatory surgical facility.

1028 In addition, any violation of any provision of this chapter
1029 or any rules or regulations promulgated in furtherance thereof by
1030 intent, fraud, deceit, unlawful design, willful and/or deliberate
1031 misrepresentation, or by careless, negligent or incautious



1032 disregard for such statutes or rules and regulations, either by
1033 persons acting individually or in concert with others, shall
1034 constitute a misdemeanor and shall be punishable by a fine not to
1035 exceed One Thousand Dollars (\$1,000.00) for each offense. Each
1036 day of continuing violation shall be considered a separate
1037 offense. The venue for prosecution of any such violation shall be
1038 in any county of the state in which any such violation, or portion
1039 thereof, occurred.

1040 **SECTION 19.** Section 41-77-1, Mississippi Code of 1972, is
1041 amended as follows:

1042 41-77-1. For purposes of this chapter:

1043 (a) "Birthing center" * * * means a publicly or
1044 privately owned facility, place or institution constructed,
1045 renovated, leased or otherwise established where nonemergency
1046 births are planned to occur away from the mother's usual residence
1047 following a documented period of prenatal care for a normal
1048 uncomplicated pregnancy which has been determined to be low risk
1049 through a formal risk scoring examination. Care provided in a
1050 birthing center shall be provided by a licensed physician, or
1051 certified nurse midwife, and a registered nurse. Services
1052 provided in a birthing center shall be limited in the following
1053 manner: (i) surgical services shall be limited to those normally
1054 performed during uncomplicated childbirth, such as episiotomy and
1055 repair, and shall not include operative obstetrics or caesarean
1056 sections; (ii) labor shall not be inhibited, stimulated or



1057 augmented with chemical agents during the first or second stage of
1058 labor; (iii) systemic analgesia may be administered and local
1059 anesthesia for pudental block and episiotomy repair may be
1060 performed. General and conductive anesthesia shall not be
1061 administered at birthing centers; (iv) patients shall not remain
1062 in the facility in excess of twenty-four (24) hours.

1063 Hospitals are excluded from the definition of a "birthing
1064 center" unless they choose to and are qualified to designate a
1065 portion or part of the hospital as a birthing center, and nothing
1066 herein shall be construed as referring to the usual service
1067 provided the pregnant female in the obstetric-gynecology service
1068 of an acute care hospital. Such facility or center, as heretofore
1069 stated, shall include the offices of physicians in private
1070 practice alone or in groups of two (2) or more; and such facility
1071 or center rendering service to pregnant female persons, as stated
1072 heretofore and by the rules and regulations promulgated by the
1073 licensing agency in furtherance thereof, shall be deemed to be a
1074 "birthing center" whether using a similar or different name. Such
1075 center or facility if in any manner is deemed to be or considered
1076 to be operated or owned by a hospital or a hospital holding
1077 leasing or management company, for profit or not for profit, is
1078 required to comply with all birthing center standards governing a
1079 "hospital affiliated" birthing center as adopted by the licensing
1080 authority.



1081 (b) "Hospital affiliated" birthing center * * * means a
1082 separate and distinct unit of a hospital or a building owned,
1083 leased, rented or utilized by a hospital and located in the same
1084 county as the hospital for the purpose of providing the service of
1085 a "birthing center." Such center or facility is not required to
1086 be licensed separately, and may operate under the license issued
1087 to the hospital if it is in compliance with Section 41-9-1 et
1088 seq., where applicable, and the rules and regulations promulgated
1089 by the licensing agency in furtherance thereof.

1090 (c) "Freestanding" birthing center * * * means a
1091 separate and distinct facility or center or a separate and
1092 distinct organized unit of a hospital or other * * * entity for
1093 the purpose of performing the service of a "birthing center."
1094 Such facility or center must be separately licensed and must
1095 comply with all licensing standards promulgated by the licensing
1096 agency by virtue of this chapter. Further, such facility or
1097 center must be a separate, identifiable entity and must be
1098 physically, administratively and financially independent from
1099 other operations of any hospital or other health care facility or
1100 service and shall maintain a separate and required staff,
1101 including administrative staff. * * *

1102 (d) "Licensing agency" * * * means the State Department
1103 of Health.

1104 **SECTION 20.** Section 41-77-5, Mississippi Code of 1972, is
1105 amended as follows:



1106 41-77-5. No person * * * or other entity, acting severally
1107 or jointly with any other person or entity, shall establish,
1108 conduct or maintain a "birthing center" in this state without a
1109 license under this chapter.

1110 **SECTION 21.** Section 41-77-21, Mississippi Code of 1972, is
1111 amended as follows:

1112 41-77-21. Any applicant or licensee aggrieved by the
1113 decision of the licensing agency after a hearing may, within
1114 thirty (30) days after the mailing or serving of notice of the
1115 decision as provided in Section 43-11-11, * * * file a notice of
1116 appeal to the Chancery Court of the First Judicial District of
1117 Hinds County or in the chancery court of the county in which the
1118 institution is located or proposed to be located. * * *
1119 Thereupon, the licensing agency shall * * * certify and file with
1120 the court a copy of the record and decision, including the
1121 transcript of the hearings in which the decision is based. No new
1122 or additional evidence shall be introduced in court; the case
1123 shall be determined upon the record certified to the court. The
1124 court may sustain or dismiss the appeal, modify or vacate the
1125 order complained of in whole or in part, as the case may be; but
1126 in case the order is wholly or partly vacated, the court may also,
1127 in its discretion, remand the matter to the licensing agency for
1128 such further proceedings, not inconsistent with the court's order,
1129 as, in the opinion of the court, justice may require. The order
1130 may not be vacated or set aside, either in whole or in part,



1131 except for errors of law, unless the court finds that the order of
1132 the licensing agency is not supported by substantial evidence, is
1133 contrary to the manifest weight of the evidence, is in excess of
1134 the statutory authority or jurisdiction of the licensing agency,
1135 or violates any vested constitutional rights of any party involved
1136 in the appeal. Pending final disposition of the matter, the
1137 status quo of the applicant or licensee shall be preserved, except
1138 as the court otherwise orders in the public interest. Rules with
1139 respect to court costs in other cases in chancery shall apply
1140 equally to cases hereunder. Appeals in accordance with law may be
1141 had to the Supreme Court of the State of Mississippi from any
1142 final judgment of the chancery court.

1143 **SECTION 22.** Section 41-77-23, Mississippi Code of 1972, is
1144 amended as follows:

1145 41-77-23. Any person or persons or other entity or entities
1146 establishing, managing or operating a "birthing center" or
1147 conducting the business of a "birthing center" without the
1148 required license, or which otherwise violate any of the provisions
1149 of this chapter * * * or the rules, regulations or standards
1150 promulgated in furtherance of any law in which the * * * licensing
1151 agency has authority therefor, shall be subject to the * * *
1152 following:

1153 (a) Revocation of the license of the birthing center or
1154 a designated section, component or service thereof; or



1155 (b) Nonlicensure of a specific or designated service
1156 offered by the birthing center.

1157 In addition, any violation of any provision of this chapter
1158 or any rules or regulations promulgated in furtherance thereof by
1159 intent, fraud, deceit, unlawful design, willful and/or deliberate
1160 misrepresentation, or by careless, negligent or incautious
1161 disregard for such statutes or rules and regulations, either by
1162 persons acting individually or in concert with others, shall
1163 constitute a misdemeanor and shall be punishable by a fine not to
1164 exceed One Thousand Dollars (\$1,000.00) for each offense. Each
1165 day of continuing violation shall be considered a separate
1166 offense. The venue for prosecution of any such violation shall be
1167 in any county of the state in which any such violation, or portion
1168 thereof, occurred.

1169 **SECTION 23.** Section 41-77-25, Mississippi Code of 1972, is
1170 amended as follows:

1171 41-77-25. Upon receipt of an application for license and the
1172 license fee, the licensing agency shall issue a license if the
1173 applicant and the institutional facilities meet the requirements
1174 established under this chapter * * *. A license, unless suspended
1175 or revoked, shall be renewable annually upon payment of a renewal
1176 fee of Three Hundred Dollars (\$300.00), which shall be paid to the
1177 licensing agency, and upon filing by the licensee and approval by
1178 the licensing agency of an annual report upon such uniform dates
1179 and containing such information in such form as the licensing



1180 agency requires. Any increase in the fee charged by the licensing
1181 agency under this section shall be in accordance with the
1182 provisions of Section 41-3-65. Each license shall be issued only
1183 for the premises and person or persons named in the application
1184 and shall not be transferable or assignable. Licenses shall be
1185 posted in a conspicuous place on the licensed premises.

1186 **SECTION 24.** Section 43-11-9, Mississippi Code of 1972, is
1187 amended as follows:

1188 43-11-9. (1) Upon receipt of an application for license and
1189 the license fee, the licensing agency shall issue a license if the
1190 applicant and the institutional facilities meet the requirements
1191 established under this chapter * * *. A license, unless suspended
1192 or revoked, shall be renewable annually upon payment by (a) the
1193 licensee of an institution for the aged or infirm, except for
1194 personal care homes, of a renewal fee of Twenty Dollars (\$20.00)
1195 for each bed in the institution, with a minimum fee per
1196 institution of Two Hundred Dollars (\$200.00), or (b) the licensee
1197 of a personal care home of a renewal fee of Fifteen Dollars
1198 (\$15.00) for each bed in the institution, with a minimum fee per
1199 institution of One Hundred Dollars (\$100.00), which shall be paid
1200 to the licensing agency, and upon filing by the licensee and
1201 approval by the licensing agency of an annual report upon such
1202 uniform dates and containing such information in such form as the
1203 licensing agency prescribes by regulation. Any increase in the
1204 fee charged by the licensing agency under this subsection shall be



1205 in accordance with the provisions of Section 41-3-65. Each
1206 license shall be issued only for the premises and person or
1207 persons or other legal entity or entities named in the application
1208 and shall not be transferable or assignable except with the
1209 written approval of the licensing agency. Licenses shall be
1210 posted in a conspicuous place on the licensed premises.

1211 (2) A fee known as a "User Fee" shall be applicable and
1212 shall be paid to the licensing agency as set out in subsection (1)
1213 of this section. Any increase in the fee charged by the licensing
1214 agency under this subsection shall be in accordance with the
1215 provisions of Section 41-3-65. This user fee shall be assessed
1216 for the purpose of the required reviewing and inspections of the
1217 proposal of any institution in which there are additions,
1218 renovations, modernizations, expansion, alterations, conversions,
1219 modifications or replacement of the entire facility involved in
1220 such proposal. This fee includes the reviewing of architectural
1221 plans in all steps required. There shall be a minimum user fee of
1222 Fifty Dollars (\$50.00) and a maximum user fee of Five Thousand
1223 Dollars (\$5,000.00).

1224 (3) No governmental entity or agency shall be required to
1225 pay the fee or fees set forth in this section.

1226 **SECTION 25.** Section 43-11-19, Mississippi Code of 1972, is
1227 amended as follows:

1228 43-11-19. Information received by the licensing agency
1229 through filed reports, inspection, or as otherwise authorized



1230 under this chapter, shall not be disclosed publicly in such manner
1231 as to identify individuals, except in a proceeding involving the
1232 questions of licensure; however, the licensing agency may utilize
1233 statistical data concerning types of services and the utilization
1234 of those services for institutions for the aged or infirm in
1235 performing the * * * duties imposed upon it by * * * Section
1236 43-11-21.

1237 **SECTION 26.** Section 43-13-117.5, Mississippi Code of 1972,
1238 is amended as follows:

1239 43-13-117.5. (1) The Division of Medicaid is authorized to
1240 reimburse for services provided to eligible Medicaid beneficiaries
1241 by a licensed freestanding psychiatric hospital in a method and
1242 manner to be determined by the division in accordance with federal
1243 law and federal regulations. The division may seek any necessary
1244 waivers * * * or make any required amendments to its State
1245 Plan * * * as necessary to provide the services authorized under
1246 this section.

1247 (2) As used in this section * * *:

1248 (a) "Psychiatric hospital" * * * means an
1249 institution * * * which is primarily engaged in providing to
1250 inpatients, by or under the supervision of a physician,
1251 psychiatric services for the diagnosis and treatment of persons
1252 with mental illness.

1253 (b) "Hospital" means an institution which is primarily
1254 engaged in providing to inpatients, by or under the supervision of



1255 physicians, diagnostic services and therapeutic services for
1256 medical diagnoses, treatment and care of injured, disabled or sick
1257 persons, or rehabilitation services for the rehabilitation of
1258 injured, disabled or sick persons. Such term does not include
1259 psychiatric hospitals.

1260 (3) It is the intent of the Legislature that the cost of
1261 providing services to individuals in a psychiatric hospital shall
1262 not exceed the cost of providing the same services to individuals
1263 in a hospital * * *.

1264 **SECTION 27.** Section 57-117-5, Mississippi Code of 1972, is
1265 amended as follows:

1266 57-117-5. (1) The MDA may certify an area as a health care
1267 industry zone if the following requirements are met:

1268 (a) The area is located within:

1269 (i) Three (3) contiguous counties which have * * *
1270 hospitals located within the counties that have more than three
1271 hundred seventy-five (375) acute care hospital beds; and/or

1272 (ii) A county which has a hospital with a minimum
1273 capital investment of Two Hundred Fifty Million Dollars
1274 (\$250,000,000.00) and for which construction is completed before
1275 July 1, 2017;

1276 (b) The health care industry facility is located within
1277 a five-mile radius of:

1278 (i) A facility with a * * * license for hospital
1279 beds; and/or



1280 (ii) A university or college that is:
1281 1. Accredited by the Southern Association of
1282 Colleges and Schools and awards degrees and/or trains workers for
1283 jobs in health care or pharmaceutical fields of study and/or work,
1284 and
1285 2. Located along or near Mississippi Highway
1286 67 within a master planned community as defined in Section
1287 19-5-10; and
1288 (c) The zoning of the local government unit, if
1289 applicable, allows the construction or operation in the proposed
1290 health care industry zone of the health care industry facility.

1291 * * *

1292 (* * *2) The MDA may adopt and promulgate such rules and
1293 regulations, in compliance with the Mississippi Administrative
1294 Procedures Law, as are necessary for the efficient and effective
1295 administration of this section in keeping with the purposes for
1296 which it is enacted.

1297 **SECTION 28.** Section 41-9-311, Mississippi Code of 1972,
1298 which provides that nothing in the Rural Health Availability Act
1299 exempts hospitals from compliance with the certificate of need
1300 law, is repealed.

1301 **SECTION 29.** This act shall take effect and be in force from
1302 and after July 1, 2023.

