

By: Senator(s) Hill

To: Public Health and
Welfare

SENATE BILL NO. 2682

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16 repealed.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



absentee voting is provided for by law, the registrar shall provide a sufficient number of applications. In the event a special election is called and set at a date which makes it impractical or impossible to prepare applications for absent elector's ballot sixty (60) days before the election, the registrar shall provide applications as soon as practicable after the election is called. The registrar shall fill in the date of the particular election on the application for which the application will be used. For voters appearing in person to cast an absentee vote, the application and elector certificate shall be printed on the absentee ballot envelope as provided in Section 23-15-659.

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



47 The form shall provide a place for such person to place his or her
48 mark after the form has been filled out by the registrar.

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

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

55 (b) A person designated by the person for whom the
56 absentee ballot application or absentee ballot is sought, the
57 registrar or the deputy registrar.

58 As used in this subsection, "family member" means a spouse,
59 parent, grandparent, sibling, adult child, grandchild or legal
60 guardian.

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



72 registrar shall be kept by the registrar in his or her office in a
73 secure location. At the time such boxes are delivered to the
74 election commissioners or managers, the registrar shall also turn
75 over a list of all such persons who have voted and whose mailed
76 ballots are in the registrar's office.

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

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

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

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

94 (2) The procedure to be followed by any public body in
95 declaring an executive session shall be as follows: Any member
96 shall have the right to request by motion a closed determination



97 upon the issue of whether or not to declare an executive session.
98 The motion, by majority vote, shall require the meeting to be
99 closed for a preliminary determination of the necessity for
100 executive session. No other business shall be transacted until
101 the discussion of the nature of the matter requiring executive
102 session has been completed and a vote, as required in subsection
103 (1) hereof, has been taken on the issue.

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

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

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



122 (b) Strategy sessions or negotiations with respect to
123 prospective litigation, litigation or issuance of an appealable
124 order when an open meeting would have a detrimental effect on the
125 litigating position of the public body.

126 (c) Transaction of business and discussion regarding
127 the report, development or course of action regarding security
128 personnel, plans or devices.

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

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

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

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

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

142 (i) Transaction of business and discussion concerning
143 the preparation of tests for admission to practice in recognized
144 professions.



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

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

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

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



(n) Transaction of business of the boards of trustees of public hospitals that would require discussion of any identifiable patient information, including without limitation, patients' complaints, patients' accounts, patients receiving charity care, or treatment that could be identified to a patient.

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

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

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

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

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

35-1-19. There is * * * authorized to be established by the State Veterans Affairs Board, the Mississippi State Veterans Home



on a site to be determined by the State Veterans Affairs Board,
with the approval of the Bureau of Building, Grounds and Real
Property Management of the * * * Department of Finance and
Administration, when funds are made available for such purpose by
any agency of the federal government or other sources. The
object and purpose of the establishment of the Mississippi State
Veterans Home shall be to provide domiciliary care and other
related services for eligible veterans of the State of
Mississippi.

One or more additional veterans homes or domiciliaries are
hereby authorized to be established by the State Veterans Affairs
Board on sites in northern, central or southern Mississippi, to be
determined by the State Veterans Affairs Board, with the approval
of the Department of Finance and Administration, when funds are
made available for such purpose by any agency of the federal
government or other sources. The Veterans Affairs Board shall
give the three (3) regions, northern, southern and central
priority as to where the veterans home shall be located, with the
northern region having first priority, the southern region having
the next level priority and the central region being third in
order of priority. The Veterans Affairs Board shall establish and
operate the veterans home in Rankin County under the provisions of
Chapter 389, Laws of 2023. The object and purpose of the
establishment of such additional homes or domiciliaries shall be



to provide domiciliary care and other related services for
eligible veterans of the State of Mississippi. * * *

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

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

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

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

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

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

(iv) To enter into, and to authorize the executive
officer to execute contracts, grants and cooperative agreements
with any federal or state agency or subdivision thereof, or any
public or private institution located inside or outside the State
of Mississippi, or any person, corporation or association in



connection with carrying out the provisions of this chapter, if it finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those purposes by the Legislature;

(v) To appoint, upon recommendation of the Executive Officer of the State Department of Health, a Director of Internal Audit who shall be either a Certified Public Accountant or Certified Internal Auditor, and whose employment shall be continued at the discretion of the board, and who shall report directly to the board, or its designee; and

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

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

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

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

(iii) To organize the administrative units of the department in accordance with the plan adopted by the board and, with board approval, alter the organizational plan and reassign



responsibilities as he or she may deem necessary to carry out the policies of the board;

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

(v) To employ, subject to regulations of the State Personnel Board, qualified professional personnel in the subject matter or fields of each office, and such other technical and clerical staff as may be required for the operation of the department. The executive officer shall be the appointing authority for the department, and shall have the power to delegate the authority to appoint or dismiss employees to appropriate subordinates, subject to the rules and regulations of the State Personnel Board;

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

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

(viii) To prepare and deliver to the Chairmen of the Public Health and Welfare/Human Services Committees of the



Senate and House on or before January 1 of each year, a plan for monitoring infant mortality in Mississippi and a full report of the work of the department on reducing Mississippi's infant mortality and morbidity rates and improving the status of maternal and infant health; and

(ix) To enter into contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, if he or she finds those actions to be in the public interest and the contracts or agreements do not have a financial cost that exceeds the amounts appropriated for those purposes by the Legislature. Each contract or agreement entered into by the executive officer shall be submitted to the board before its next meeting.

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

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

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



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

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

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

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

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

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

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

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



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

(e) To charge and collect reasonable fees for health services, including immunizations, inspections and related activities, and the board shall charge fees for those services; however, if it is determined that a person receiving services is unable to pay the total fee, the board shall collect any amount that the person is able to pay. Any increase in the fees charged by the board under this paragraph shall be in accordance with the provisions of Section 41-3-65.

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

(ii) To require that a permit be obtained from the Department of Health before those persons begin operation. If any such person fails to obtain the permit required in this subparagraph (ii), the State Board of Health, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed One Thousand Dollars (\$1,000.00) for each violation.



366 However, the department is not authorized to impose a monetary
367 penalty against any person whose gross annual prepared food sales
368 are less than Five Thousand Dollars (\$5,000.00). Money collected
369 by the board under this subparagraph (ii) shall be deposited to
370 the credit of the State General Fund of the State Treasury.

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

374 (h) On presentation of proper authority, to enter into
375 and inspect any public place or building where the State Health
376 Officer or his representative deems it necessary and proper to
377 enter for the discovery and suppression of disease and for the
378 enforcement of any health or sanitary laws and regulations in the
379 state.

380 (i) To conduct investigations, inquiries and hearings,
381 and to issue subpoenas for the attendance of witnesses and the
382 production of books and records at any hearing when authorized and
383 required by statute to be conducted by the State Health Officer or
384 the State Board of Health.

385 (j) To promulgate rules and regulations, and to collect
386 data and information, on (i) the delivery of services through the
387 practice of telemedicine; and (ii) the use of electronic records
388 for the delivery of telemedicine services.

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



391 (5) (a) The State Board of Health shall have the authority,
392 in its discretion, to establish programs to promote the public
393 health, to be administered by the State Department of Health.
394 Specifically, those programs may include, but shall not be limited
395 to, programs in the following areas:

- 396 (i) Maternal and child health;
- 397 (ii) Family planning;
- 398 (iii) Pediatric services;
- 399 (iv) Services to crippled and disabled children;
- 400 (v) Control of communicable and noncommunicable
401 disease;
- 402 (vi) Chronic disease;
- 403 (vii) Accidental deaths and injuries;
- 404 (viii) Child care licensure;
- 405 (ix) Radiological health;
- 406 (x) Dental health;
- 407 (xi) Milk sanitation;
- 408 (xii) Occupational safety and health;
- 409 (xiii) Food, vector control and general
410 sanitation;
- 411 (xiv) Protection of drinking water;
- 412 (xv) Sanitation in food handling establishments
413 open to the public;
- 414 (xvi) Registration of births and deaths and other
415 vital events;



416 (xvii) Such public health programs and services as
417 may be assigned to the State Board of Health by the Legislature or
418 by executive order; and

419 (xviii) Regulation of domestic and imported fish
420 for human consumption.

421 (b) [Deleted]

422 (c) The State Department of Health may undertake such
423 technical programs and activities as may be required for the
424 support and operation of those programs, including maintaining
425 physical, chemical, bacteriological and radiological laboratories,
426 and may make such diagnostic tests for diseases and tests for the
427 evaluation of health hazards as may be deemed necessary for the
428 protection of the people of the state.

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

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

433 (i) To enter into capitalization grant agreements
434 with the United States Environmental Protection Agency, or any
435 successor agency thereto;

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

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



441 (iv) To establish and collect fees to defray the
442 reasonable costs of administering the revolving fund or emergency
443 fund if the State Board of Health determines that those costs will
444 exceed the limitations established in the federal Safe Drinking
445 Water Act, as amended. The administration fees may be included in
446 loan amounts to loan recipients for the purpose of facilitating
447 payment to the board; however, those fees may not exceed five
448 percent (5%) of the loan amount.

449 (7) [Deleted]

450 (8) Notwithstanding any other provision to the contrary, the
451 State Department of Health shall have the following specific
452 powers: The State Department of Health is authorized to issue a
453 license to an existing home health agency for the transfer of a
454 county from that agency to another existing home health agency,
455 and to charge a fee for reviewing and making a determination on
456 the application for such transfer not to exceed one-half (1/2) of
457 the authorized fee assessed for the original application for the
458 home health agency * * *.

459 * * *

460 (* * *9) Notwithstanding any other provision to the
461 contrary, the State Department of Health shall have the following
462 specific powers: The State Department of Health is authorized to
463 extend and renew any certificate of need that has expired, and to
464 charge a fee for reviewing and making a determination on the
465 application for such action not to exceed one-half (1/2) of the



466 authorized fee assessed for the original application for the
467 certificate of need, with the revenue to be deposited by the State
468 Department of Health into the special fund created under Section
469 41-7-188.

470 (* * *10) Notwithstanding any other provision to the
471 contrary, the State Department of Health shall have the following
472 specific powers: The State Department of Health is authorized and
473 empowered, to revoke, immediately, the license and require closure
474 of any institution for the aged or infirm, including any other
475 remedy less than closure to protect the health and safety of the
476 residents of said institution or the health and safety of the
477 general public.

478 (* * *11) Notwithstanding any other provision to the
479 contrary, the State Department of Health shall have the following
480 specific powers: The State Department of Health is authorized and
481 empowered, to require the temporary detainment of individuals for
482 disease control purposes based upon violation of any order of the
483 State Health Officer, as provided in Section 41-23-5. For the
484 purpose of enforcing such orders of the State Health Officer,
485 persons employed by the department as investigators shall have
486 general arrest powers. All law enforcement officers are
487 authorized and directed to assist in the enforcement of such
488 orders of the State Health Officer.

489 (* * *12) Additionally, the State Board of Health and the
490 State Health Officer each are authorized and directed to study the



491 status of health care, in its broadest sense, throughout the
492 state. The study should include challenges such as access to
493 care; the cost of care; indigent care; providing health care to
494 the incarcerated; the availability of health care workers,
495 paraprofessionals, and professionals; the effects of unhealthy
496 lifestyle choices; the consequences of health care facilities
497 locating in affluent and urban areas to the detriment of less
498 affluent areas, small towns, and rural areas; and negative trends
499 which may cause ill effects if they continue. The study shall
500 also include opportunities to improve health care, such as greater
501 coordination among state agencies, local governments, and other
502 entities which provide various types of health care; methods of
503 increasing the health care workforce; and methods to increase the
504 location of health care facilities in distressed areas, rural
505 areas, and small towns. All state agencies, the Legislative
506 Budget Office and the Joint Legislative Committee on Performance
507 Evaluation and Expenditure Review (PEER) are directed to assist
508 the department in developing this study. This provision does not
509 by itself grant any additional power to the State Board of Health
510 or the State Health Officer to require any entity to operate
511 differently. It does, however, empower and direct them to obtain
512 information and make recommendations, and it does require all
513 entities to cooperate with the board and health officer as they
514 seek information.



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

517 41-4-18. (1) Notwithstanding * * * any other section of
518 law, the Department of Mental Health shall have the authority to
519 contract with private and/or public entities to transfer beds
520 within intermediate care facilities for individuals with
521 intellectual disabilities owned and operated by the Department of
522 Mental Health to locations owned and operated by private and/or
523 public entities for the purpose of serving individuals with
524 intellectual disabilities in the settings most appropriate to meet
525 their needs.

526 (2) Any license granted to the Department of Mental Health
527 by the Department of Health for the operation of transferred
528 intermediate care facility for individuals with intellectual
529 disabilities beds shall remain in the name of the Department of
530 Mental Health * * *.

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

533 41-9-11. Upon receipt of an application for license and the
534 license fee, the licensing agency shall issue a license if the
535 applicant and hospital facilities meet the requirements
536 established under Sections 41-9-1 through 41-9-35 * * *. A
537 license, unless suspended or revoked, shall be renewable annually,
538 upon filing by the licensee, and approval by the licensing agency
539 of an annual report upon such uniform dates and containing such



540 information in such form as the licensing agency prescribes by
541 regulation and upon paying the annual fee for such license as
542 determined by the schedule and provisions of Section 41-9-9. Each
543 license shall be issued only for the premises and persons or
544 governmental units named in the application and shall not be
545 transferable or assignable except with the written approval of the
546 licensing agency. Licenses shall be posted in a conspicuous place
547 on the licensed premises.

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

550 41-9-23. Information received by the licensing agency
551 through filed reports, inspection, or as otherwise authorized
552 under Sections 41-9-1 through 41-9-35 shall not be disclosed
553 publicly in such manner as to identify individuals, except in a
554 proceeding involving the questions of licensure; however, the
555 licensing agency may utilize statistical data concerning types of
556 services and the utilization of these services for hospitals in
557 performing the * * * duties imposed upon it by * * * Section
558 41-9-29.

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

561 41-9-68. (1) Except as otherwise provided in subsection (2)
562 of this section, records maintained by public hospitals shall be
563 exempt from the provisions of the Mississippi Public Records Act
564 of 1983.



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

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

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

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

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

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

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



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

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

41-9-209. (1) Any hospital is authorized to seek designation as a critical access hospital. Subject to federal law, there shall be no requirement or limitation regarding the distance that a critical access hospital must be located from another hospital. The bed-size limit for a critical access hospital is twenty-five (25) operational acute care beds, and the average maximum length of stay for patients in a critical access hospital is ninety-six (96) hours, unless a longer period is required because of inclement weather or other emergency conditions. In the event the critical access hospital is a swing bed facility, any of the twenty-five (25) acute care beds allowed in a critical access hospital may be used for the provision of extended care services or acute care inpatient services so long as the furnishing of such services does not exceed twenty-five (25) beds and so long as the hospital does not seek Medicaid reimbursement for more than fifteen (15) acute care inpatient beds.

(2) A critical access hospital (a) must make available twenty-four-hour emergency care services, as described in the state rural health care plan, for ensuring access to emergency care services in the rural area served by the critical access



615 hospital, and (b) must be a member of a rural health network. Any
616 hospital that has a distinct-part skilled nursing facility,
617 certified under Title XVIII of the federal Social Security Act, at
618 the time it applies for designation as a critical access hospital,
619 may continue its operation of the distinct-part skilled nursing
620 facility and is not required to count the beds in the
621 distinct-part skilled nursing facility for purposes of the allowed
622 twenty-five (25) acute care inpatient beds.

623 * * * (3) A critical access hospital may establish a
624 distinct-part psychiatric unit and a distinct-part rehabilitation
625 unit, each of which must be certified under Title XVIII of the
626 federal Social Security Act and each of which may consist of no
627 more than ten (10) beds. No bed in the critical access hospital's
628 distinct-part psychiatric unit or distinct-part rehabilitation
629 unit shall be counted for purposes of the twenty-five (25) bed
630 limitation. Each distinct-part unit in a critical access hospital
631 must comply with all applicable state licensure laws and federal
632 certification laws.

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

635 41-9-210. If a hospital seeks a new license from the
636 department in order to be designated as a critical access
637 hospital, the department shall maintain a record of the acute care
638 beds of that hospital that have been delicensed as a result of
639 that designation and continue counting those beds as part of the



state's total acute care bed count for health care planning purposes. If a critical access hospital later desires to relicense some or all of its delicensed acute care beds, it shall notify the department of its intent to increase the number of its licensed acute care beds. The department shall survey the hospital within thirty (30) days of that notice and, if appropriate, issue the hospital a new license reflecting the new contingent of beds. * * *

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

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

41-71-7. Upon receipt of an application for a license and the license fee, and a determination by the licensing agency that the application is in compliance with * * * the provisions of this chapter, such license shall be issued. A license, unless suspended or revoked, shall be renewable annually upon payment by the licensee of a renewal fee of One Thousand Dollars (\$1,000.00) and upon approval by the licensing agency of an annual report, required to be submitted by the licensee, containing such information in such form and at such time as the licensing agency prescribes by rule or regulation. Any increase in the fee charged by the licensing agency under this section shall be in accordance



665 with the provisions of Section 41-3-65. Each license shall be
666 issued only for the home health agency and person or persons or
667 other legal entity or entities named in the application and shall
668 not be transferable or assignable except with the written approval
669 of the licensing agency. Licenses shall be posted in a
670 conspicuous place in the designated business office of the
671 licensee. Each licensee shall designate, in writing, one (1)
672 individual person as the responsible party for the conducting of
673 the business of the home health agency with the licensing agency.

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

676 41-71-19. Information received by the licensing agency
677 through filed reports, inspection, or as otherwise authorized
678 under this chapter, shall not be disclosed publicly in such manner
679 as to identify individuals, except in proceedings involving the
680 question of licensure; however, the licensing agency may utilize
681 statistical data concerning types of services and the utilization
682 of those services for home health care agencies in performing
683 the * * * duties imposed upon it by * * * regulations necessarily
684 promulgated for participation in the Medicare or Medicaid
685 programs.

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



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

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

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

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

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

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

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

(iii) The cost of architectural, engineering, legal and related services; the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing or determining the need for or the feasibility and



713 practicability of such hospital equipment; and the cost of
714 providing or establishing a reasonable reserve fund for the
715 payment of principal and interest on bonds;

716 (iv) The cost of financing charges, including
717 premiums or prepayment penalties, if any, and interest accrued
718 prior to the acquisition and installation or refinancing of such
719 hospital equipment and after such acquisition and installation or
720 refinancing and start-up costs related to hospital equipment;

721 (v) Any and all costs paid or incurred in
722 connection with the financing of such hospital equipment,
723 including out-of-pocket expenses, the cost of financing, legal,
724 accounting, financial advisory and consulting fees, expenses and
725 disbursements; the cost of any policy of insurance; the cost of
726 printing, engraving and reproduction services; and the cost of the
727 initial or acceptance fee of any trustee or paying agent;

728 (vi) All direct or indirect costs of the authority
729 incurred in connection with providing such hospital equipment,
730 including, without limitation, reasonable sums to reimburse the
731 authority for time spent by its agents or employees with respect
732 to providing such hospital equipment and the financing thereof;
733 and

734 (vii) Any and all costs paid or incurred for the
735 administration of any program for the purchase or lease of or the
736 making of loans for hospital equipment, by the authority and any



737 program for the sale or lease of or the making of loans for such
738 hospital equipment to any participating hospital institution.

739 (e) "Cost," as applied to hospital facilities, means
740 any and all costs of such hospital facilities and, without
741 limiting the generality of the foregoing, shall include the
742 following:

743 (i) All costs of the establishment, demolition,
744 site development of new and rehabilitated buildings,
745 rehabilitation, reconstruction repair, erection, building,
746 construction, remodeling, adding to and furnishing of any such
747 hospital facilities and all costs incident or related thereto;

748 (ii) The cost of acquiring any property interest
749 in such hospital facilities including the purchase thereof, the
750 cost of an option to purchase or the cost of any leasehold
751 interest;

752 (iii) The cost of architectural, engineering,
753 legal and related services; the cost of the preparation of plans,
754 specifications, studies, surveys and estimates of cost and of
755 revenue; all other expenses necessary or incident to planning,
756 providing or determining the need for or the feasibility and
757 practicability of such hospital facilities or the acquisition
758 thereof; and the cost of providing or establishing a reasonable
759 reserve fund for the payment of principal of and interest on
760 bonds;



761 (iv) The cost of financing charges, including
762 premiums or prepayment penalties, if any, and interest accrued
763 prior to the acquisition and completion or refinancing of such
764 hospital facilities and after such acquisition and completion or
765 refinancing and start-up costs related to hospital facilities;

766 (v) Any and all costs paid or incurred in
767 connection with the financing of such hospital facilities,
768 including out-of-pocket expenses, the cost of financing, legal,
769 accounting, financial advisory and consulting fees, expenses and
770 disbursement; the cost of any policy of insurance; the cost of
771 printing, engraving and reproduction services; and the cost of the
772 initial or acceptance fee of any trustee or paying agent;

773 (vi) All direct or indirect costs of the authority
774 incurred in connection with providing such hospital facilities,
775 including, without limitation, reasonable sums to reimburse the
776 authority for time spent by its agents or employees with respect
777 to providing such hospital facilities and the financing thereof;

778 (vii) Any and all costs paid or incurred for the
779 administration of any program for the purchase or lease of or the
780 making of loans for hospital facilities, by the authority and any
781 program for the sale or lease of or the making of loans for such
782 hospital facilities to any participating hospital institution; and

783 (viii) The cost of providing for the payment or
784 the making provision for the payment of, by the appropriate
785 escrowing of monies or securities, the principal of and interest



786 on which when due will be adequate to make such payment, any
787 indebtedness encumbering the revenues or property of a
788 participating hospital institution, whether such payment is to be
789 effected by redemption of such indebtedness prior to maturity or
790 not.

791 (f) "Hospital equipment" means any personal property
792 which is found and determined by the authority to be required or
793 necessary or helpful for medical care, research, training or
794 teaching, any one (1) or all, in hospital facilities located in
795 the state, irrespective of whether such property is in existence
796 at the time of, or is to be provided after the making of, such
797 finding. * * *

798 (g) "Hospital facility" or "hospital facilities" means
799 buildings and structures of any and all types used or useful, in
800 the discretion of the authority, for providing any types of care
801 to the sick, wounded, infirmed, needy, mentally incompetent or
802 elderly and shall include, without limiting the generality of the
803 foregoing, out-patient clinics, laboratories, laundries, nurses',
804 doctors' or interns' residences, administration buildings, office
805 buildings, facilities for research directly involved with hospital
806 care, maintenance, storage or utility facilities, parking lots,
807 and garages and all necessary, useful, or related furnishings, and
808 appurtenances and all lands necessary or convenient as a site for
809 the foregoing.



810 (h) "Participating hospital institution" or "hospital
811 institution" means a public or private corporation, association,
812 foundation, trust, cooperative, agency, body politic, or other
813 person or organization which provides or operates or proposes to
814 provide or operate hospital facilities not for profit, and which,
815 pursuant to the provisions of this act, contracts with the
816 authority for the financing or refinancing of the lease or other
817 acquisition of hospital equipment or hospital facilities, or both.

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

819 The use of singular terms herein shall also include the
820 plural of such term and the use of a plural term herein shall also
821 include the singular of such term unless the context clearly
822 requires a different connotation.

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

825 41-75-1. For the purpose of this chapter:

826 (a) "Ambulatory surgical facility" means a publicly or
827 privately owned institution that is primarily organized,
828 constructed, renovated or otherwise established for the purpose of
829 providing elective surgical treatment of "outpatients" whose
830 recovery, under normal and routine circumstances, will not require
831 "inpatient" care. The facility defined in this paragraph does not
832 include the offices of private physicians or dentists, whether
833 practicing individually or in groups, but does include
834 organizations or facilities primarily engaged in that outpatient



surgery, whether using the name "ambulatory surgical facility" or a similar or different name. That organization or facility, if in any manner considered to be operated or owned by a hospital or a hospital holding, leasing or management company, either for profit or not for profit, is required to comply with all licensing agency ambulatory surgical licensure standards governing a "hospital affiliated" facility as adopted under Section 41-9-1 et seq., provided that the organization or facility does not intend to seek federal certification as an ambulatory surgical facility as provided for at 42 CFR, Parts 405 and 416. If the organization or facility is to be operated or owned by a hospital or a hospital holding, leasing or management company and intends to seek federal certification as an ambulatory facility, then the facility is considered to be "freestanding" and must comply with all licensing agency ambulatory surgical licensure standards governing a "freestanding" facility.

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

(b) "Hospital affiliated" ambulatory surgical facility means a separate and distinct organized unit of a hospital or a building owned, leased, rented or utilized by a hospital and located in the same county in which the hospital is located, for



the primary purpose of performing ambulatory surgery procedures. The facility is not required to be separately licensed under this chapter and may operate under the hospital's license in compliance with all applicable requirements of Section 41-9-1 et seq.

(c) "Freestanding" ambulatory surgical facility means a separate and distinct facility or a separate and distinct organized unit of a hospital owned, leased, rented or utilized by a hospital or other persons for the primary purpose of performing ambulatory surgery procedures. The facility must be separately licensed as defined in this section and must comply with all licensing standards promulgated by the licensing agency under this chapter regarding a "freestanding" ambulatory surgical facility. Further, the facility must be a separate, identifiable entity and must be physically, administratively and financially independent and distinct from other operations of any other health facility, and shall maintain a separate organized medical and administrative staff. * * *

(d) "Ambulatory surgery" means surgical procedures that are more complex than office procedures performed under local anesthesia, but less complex than major procedures requiring prolonged postoperative monitoring and hospital care to ensure safe recovery and desirable results. General anesthesia is used in most cases. The patient must arrive at the facility and expect to be discharged on the same day. Ambulatory surgery shall only



884 be performed by physicians or dentists licensed to practice in the
885 State of Mississippi.

886 (e) "Abortion" means the use or prescription of any
887 instrument, medicine, drug or any other substances or device to
888 terminate the pregnancy of a woman known to be pregnant with an
889 intention other than to increase the probability of a live birth,
890 to preserve the life or health of the child after live birth or to
891 remove a dead fetus. Abortion procedures after the first
892 trimester shall only be performed at a Level I abortion facility
893 or an ambulatory surgical facility or hospital licensed to perform
894 that service.

895 (f) "Abortion facility" means a facility operating
896 substantially for the purpose of performing abortions and is a
897 separate identifiable legal entity from any other health care
898 facility. Abortions shall only be performed by physicians
899 licensed to practice in the State of Mississippi. All physicians
900 associated with the abortion facility must have admitting
901 privileges at a local hospital and staff privileges to replace
902 local hospital on-staff physicians. All physicians associated
903 with an abortion facility must be board certified or eligible in
904 obstetrics and gynecology, and a staff member trained in CPR shall
905 always be present at the abortion facility when it is open. The
906 term "abortion facility" includes physicians' offices that are
907 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.



932 An abortion facility may apply to be licensed as a Level I
933 facility or a Level II facility by the licensing agency. Level II
934 abortion facilities shall be required to meet minimum standards
935 for abortion facilities as established by the licensing agency.
936 Level I abortion facilities shall be required to meet minimum
937 standards for abortion facilities and minimum standards for
938 ambulatory surgical facilities as established by the licensing
939 agency.

940 Any abortion facility that begins operation after June 30,
941 1996, shall not be located within one thousand five hundred
942 (1,500) feet from the property on which any church, school or
943 kindergarten is located. An abortion facility shall not be in
944 violation of this paragraph if it is in compliance with this
945 paragraph on the date it begins operation and the property on
946 which a church, school or kindergarten is located within one
947 thousand five hundred (1,500) feet from the facility.

948 (i) "Freestanding emergency room" is a facility open
949 twenty-four (24) hours a day for the treatment of urgent and
950 emergent medical conditions * * * and that is not located on a
951 hospital campus. In order to be eligible for licensure under this
952 chapter, the freestanding emergency room shall be located at least
953 fifteen (15) miles from the nearest hospital-based emergency room
954 in any rural community where the federal CMMS had previously
955 designated a rural hospital as a critical access hospital and that
956 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 and 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 16. Section 41-75-5, Mississippi Code of 1972, is amended as follows:

41-75-5. No person * * * or other entity, acting severally or jointly with any other person or entity, shall establish, conduct, operate or maintain an ambulatory surgical facility or an abortion facility or a freestanding emergency room or a post-acute



residential brain injury rehabilitation facility in this state
without a license under this chapter.

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

41-75-9. Upon receipt of an application for license and the
license fee, the licensing agency shall issue a license if the
applicant and the institutional facilities meet the requirements
established under this chapter * * *. A license, unless suspended
or revoked, shall be renewable annually upon payment of a renewal
fee of Three Thousand Dollars (\$3,000.00), which shall be paid to
the licensing agency, and upon filing by the licensee and approval
by the licensing agency of an annual report upon such uniform
dates and containing such information in such form as the
licensing agency requires. Any increase in the fee charged by the
licensing agency under this section shall be in accordance with
the provisions of Section 41-3-65. Each license shall be issued
only for the premises and person or persons named in the
application and shall not be transferable or assignable. Licenses
shall be posted in a conspicuous place on the licensed premises.

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

41-75-25. Any person or persons or other entity or entities
establishing, managing or operating an ambulatory surgical
facility or conducting the business of an ambulatory surgical
facility without the required license, or which otherwise violate



any of the provisions of this chapter or the "Mississippi Health Care Commission Law of 1979," as amended, or the rules, regulations or standards promulgated in furtherance of any law in which the * * * licensing agency has authority therefor shall be subject to the following penalties and sanctions * * *:

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

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

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

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

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



1032 (a) "Birthing center" * * * means a publicly or
1033 privately owned facility, place or institution constructed,
1034 renovated, leased or otherwise established where nonemergency
1035 births are planned to occur away from the mother's usual residence
1036 following a documented period of prenatal care for a normal
1037 uncomplicated pregnancy which has been determined to be low risk
1038 through a formal risk scoring examination. Care provided in a
1039 birthing center shall be provided by a licensed physician, or
1040 certified nurse midwife, and a registered nurse. Services
1041 provided in a birthing center shall be limited in the following
1042 manner: (i) surgical services shall be limited to those normally
1043 performed during uncomplicated childbirth, such as episiotomy and
1044 repair, and shall not include operative obstetrics or caesarean
1045 sections; (ii) labor shall not be inhibited, stimulated or
1046 augmented with chemical agents during the first or second stage of
1047 labor; (iii) systemic analgesia may be administered and local
1048 anesthesia for pudental block and episiotomy repair may be
1049 performed. General and conductive anesthesia shall not be
1050 administered at birthing centers; (iv) patients shall not remain
1051 in the facility in excess of twenty-four (24) hours.

1052 Hospitals are excluded from the definition of a "birthing
1053 center" unless they choose to and are qualified to designate a
1054 portion or part of the hospital as a birthing center, and nothing
1055 herein shall be construed as referring to the usual service
1056 provided the pregnant female in the obstetric-gynecology service



1057 of an acute care hospital. Such facility or center, as heretofore
1058 stated, shall include the offices of physicians in private
1059 practice alone or in groups of two (2) or more; and such facility
1060 or center rendering service to pregnant female persons, as stated
1061 heretofore and by the rules and regulations promulgated by the
1062 licensing agency in furtherance thereof, shall be deemed to be a
1063 "birthing center" whether using a similar or different name. Such
1064 center or facility if in any manner is deemed to be or considered
1065 to be operated or owned by a hospital or a hospital holding
1066 leasing or management company, for profit or not for profit, is
1067 required to comply with all birthing center standards governing a
1068 "hospital affiliated" birthing center as adopted by the licensing
1069 authority.

1070 (b) "Hospital affiliated" birthing center * * * means a
1071 separate and distinct unit of a hospital or a building owned,
1072 leased, rented or utilized by a hospital and located in the same
1073 county as the hospital for the purpose of providing the service of
1074 a "birthing center." Such center or facility is not required to
1075 be licensed separately, and may operate under the license issued
1076 to the hospital if it is in compliance with Section 41-9-1 et
1077 seq., where applicable, and the rules and regulations promulgated
1078 by the licensing agency in furtherance thereof.

1079 (c) "Freestanding" birthing center * * * means a
1080 separate and distinct facility or center or a separate and
1081 distinct organized unit of a hospital or other * * * entity for



1082 the purpose of performing the service of a "birthing center."
1083 Such facility or center must be separately licensed and must
1084 comply with all licensing standards promulgated by the licensing
1085 agency by virtue of this chapter. Further, such facility or
1086 center must be a separate, identifiable entity and must be
1087 physically, administratively and financially independent from
1088 other operations of any hospital or other health care facility or
1089 service and shall maintain a separate and required staff,
1090 including administrative staff. * * *

1091 (d) "Licensing agency" * * * means the State Department
1092 of Health.

1093 **SECTION 20.** Section 41-77-5, Mississippi Code of 1972, is
1094 amended as follows:

1095 41-77-5. No person * * * or other entity, acting severally
1096 or jointly with any other person or entity, shall establish,
1097 conduct or maintain a "birthing center" in this state without a
1098 license under this chapter.

1099 **SECTION 21.** Section 41-77-21, Mississippi Code of 1972, is
1100 amended as follows:

1101 41-77-21. Any applicant or licensee aggrieved by the
1102 decision of the licensing agency after a hearing may, within
1103 thirty (30) days after the mailing or serving of notice of the
1104 decision as provided in Section 43-11-11, * * * file a notice of
1105 appeal to the Chancery Court of the First Judicial District of
1106 Hinds County or in the chancery court of the county in which the



1107 institution is located or proposed to be located. * * *
1108 Thereupon, the licensing agency shall * * * certify and file with
1109 the court a copy of the record and decision, including the
1110 transcript of the hearings in which the decision is based. No new
1111 or additional evidence shall be introduced in court; the case
1112 shall be determined upon the record certified to the court. The
1113 court may sustain or dismiss the appeal, modify or vacate the
1114 order complained of in whole or in part, as the case may be; but
1115 in case the order is wholly or partly vacated, the court may also,
1116 in its discretion, remand the matter to the licensing agency for
1117 such further proceedings, not inconsistent with the court's order,
1118 as, in the opinion of the court, justice may require. The order
1119 may not be vacated or set aside, either in whole or in part,
1120 except for errors of law, unless the court finds that the order of
1121 the licensing agency is not supported by substantial evidence, is
1122 contrary to the manifest weight of the evidence, is in excess of
1123 the statutory authority or jurisdiction of the licensing agency,
1124 or violates any vested constitutional rights of any party involved
1125 in the appeal. Pending final disposition of the matter, the
1126 status quo of the applicant or licensee shall be preserved, except
1127 as the court otherwise orders in the public interest. Rules with
1128 respect to court costs in other cases in chancery shall apply
1129 equally to cases hereunder. Appeals in accordance with law may be
1130 had to the Supreme Court of the State of Mississippi from any
1131 final judgment of the chancery court.



1132 **SECTION 22.** Section 41-77-23, Mississippi Code of 1972, is
1133 amended as follows:

1134 41-77-23. Any person or persons or other entity or entities
1135 establishing, managing or operating a "birthing center" or
1136 conducting the business of a "birthing center" without the
1137 required license, or which otherwise violate any of the provisions
1138 of this chapter * * * or the rules, regulations or standards
1139 promulgated in furtherance of any law in which the * * * licensing
1140 agency has authority therefor, shall be subject to the * * *
1141 following:

- 1142 (a) Revocation of the license of the birthing center or
1143 a designated section, component or service thereof; or
1144 (b) Nonlicensure of a specific or designated service
1145 offered by the birthing center.

1146 In addition, any violation of any provision of this chapter
1147 or any rules or regulations promulgated in furtherance thereof by
1148 intent, fraud, deceit, unlawful design, willful and/or deliberate
1149 misrepresentation, or by careless, negligent or incautious
1150 disregard for such statutes or rules and regulations, either by
1151 persons acting individually or in concert with others, shall
1152 constitute a misdemeanor and shall be punishable by a fine not to
1153 exceed One Thousand Dollars (\$1,000.00) for each offense. Each
1154 day of continuing violation shall be considered a separate
1155 offense. The venue for prosecution of any such violation shall be



1156 in any county of the state in which any such violation, or portion
1157 thereof, occurred.

1158 **SECTION 23.** Section 41-77-25, Mississippi Code of 1972, is
1159 amended as follows:

1160 41-77-25. Upon receipt of an application for license and the
1161 license fee, the licensing agency shall issue a license if the
1162 applicant and the institutional facilities meet the requirements
1163 established under this chapter * * *. A license, unless suspended
1164 or revoked, shall be renewable annually upon payment of a renewal
1165 fee of Three Hundred Dollars (\$300.00), which shall be paid to the
1166 licensing agency, and upon filing by the licensee and approval by
1167 the licensing agency of an annual report upon such uniform dates
1168 and containing such information in such form as the licensing
1169 agency requires. Any increase in the fee charged by the licensing
1170 agency under this section shall be in accordance with the
1171 provisions of Section 41-3-65. Each license shall be issued only
1172 for the premises and person or persons named in the application
1173 and shall not be transferable or assignable. Licenses shall be
1174 posted in a conspicuous place on the licensed premises.

1175 **SECTION 24.** Section 43-11-9, Mississippi Code of 1972, is
1176 amended as follows:

1177 43-11-9. (1) Upon receipt of an application for license and
1178 the license fee, the licensing agency shall issue a license if the
1179 applicant and the institutional facilities meet the requirements
1180 established under this chapter * * *. A license, unless suspended



1181 or revoked, shall be renewable annually upon payment by (a) the
1182 licensee of an institution for the aged or infirm, except for
1183 personal care homes, of a renewal fee of Twenty Dollars (\$20.00)
1184 for each bed in the institution, with a minimum fee per
1185 institution of Two Hundred Dollars (\$200.00), or (b) the licensee
1186 of a personal care home of a renewal fee of Fifteen Dollars
1187 (\$15.00) for each bed in the institution, with a minimum fee per
1188 institution of One Hundred Dollars (\$100.00), which shall be paid
1189 to the licensing agency, and upon filing by the licensee and
1190 approval by the licensing agency of an annual report upon such
1191 uniform dates and containing such information in such form as the
1192 licensing agency prescribes by regulation. Any increase in the
1193 fee charged by the licensing agency under this subsection shall be
1194 in accordance with the provisions of Section 41-3-65. Each
1195 license shall be issued only for the premises and person or
1196 persons or other legal entity or entities named in the application
1197 and shall not be transferable or assignable except with the
1198 written approval of the licensing agency. Licenses shall be
1199 posted in a conspicuous place on the licensed premises.

1200 (2) A fee known as a "User Fee" shall be applicable and
1201 shall be paid to the licensing agency as set out in subsection (1)
1202 of this section. Any increase in the fee charged by the licensing
1203 agency under this subsection shall be in accordance with the
1204 provisions of Section 41-3-65. This user fee shall be assessed
1205 for the purpose of the required reviewing and inspections of the



1206 proposal of any institution in which there are additions,
1207 renovations, modernizations, expansion, alterations, conversions,
1208 modifications or replacement of the entire facility involved in
1209 such proposal. This fee includes the reviewing of architectural
1210 plans in all steps required. There shall be a minimum user fee of
1211 Fifty Dollars (\$50.00) and a maximum user fee of Five Thousand
1212 Dollars (\$5,000.00).

1213 (3) No governmental entity or agency shall be required to
1214 pay the fee or fees set forth in this section.

1215 **SECTION 25.** Section 43-11-19, Mississippi Code of 1972, is
1216 amended as follows:

1217 43-11-19. Information received by the licensing agency
1218 through filed reports, inspection, or as otherwise authorized
1219 under this chapter, shall not be disclosed publicly in such manner
1220 as to identify individuals, except in a proceeding involving the
1221 questions of licensure; however, the licensing agency may utilize
1222 statistical data concerning types of services and the utilization
1223 of those services for institutions for the aged or infirm in
1224 performing the * * * duties imposed upon it by * * * Section
1225 43-11-21.

1226 **SECTION 26.** Section 43-13-117.5, Mississippi Code of 1972,
1227 is amended as follows:

1228 43-13-117.5. (1) The Division of Medicaid is authorized to
1229 reimburse for services provided to eligible Medicaid beneficiaries
1230 by a licensed freestanding psychiatric hospital in a method and



manner to be determined by the division in accordance with federal law and federal regulations. The division may seek any necessary waivers * * * or make any required amendments to its State Plan * * * as necessary to provide the services authorized under this section.

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

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

(b) "Hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnoses, treatment and care of injured, disabled or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons. Such term does not include psychiatric hospitals.

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

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



1255 57-117-5. (1) The MDA may certify an area as a health care
1256 industry zone if the following requirements are met:

1257 (a) The area is located within:

1258 (i) Three (3) contiguous counties which have * * *
1259 hospitals located within the counties that have more than three
1260 hundred seventy-five (375) acute care hospital beds; and/or

1261 (ii) A county which has a hospital with a minimum
1262 capital investment of Two Hundred Fifty Million Dollars
1263 (\$250,000,000.00) and for which construction is completed before
1264 July 1, 2017;

1265 (b) The health care industry facility is located within
1266 an eight-mile radius of:

1267 (i) A facility with a * * * license for hospital
1268 beds; and/or

1269 (ii) A university or college that is:

1270 1. Accredited by the Southern Association of
1271 Colleges and Schools and awards degrees and/or trains workers for
1272 jobs in health care or pharmaceutical fields of study and/or work,
1273 and

1274 2. Located along or near Mississippi Highway
1275 67 within a master planned community as defined in Section
1276 19-5-10; and

1277 (c) The zoning of the local government unit, if
1278 applicable, allows the construction or operation in the proposed



1279 health care industry zone of the health care industry
1280 facility. * * *

1281 (* * *2) The MDA may adopt and promulgate such rules and
1282 regulations, in compliance with the Mississippi Administrative
1283 Procedures Law, as are necessary for the efficient and effective
1284 administration of this section in keeping with the purposes for
1285 which it is enacted.

1286 **SECTION 28.** Section 41-9-311, Mississippi Code of 1972,
1287 which provides that nothing in the Rural Health Availability Act
1288 exempts hospitals from compliance with the certificate of need
1289 law, is repealed.

1290 **SECTION 29.** This act shall take effect and be in force from
1291 and after July 1, 2025.

