

By: Senator(s) Tate

To: Public Health and Welfare

SENATE BILL NO. 2872

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 16 repealed.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 patients' complaints, patients' accounts, patients receiving
170 charity 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
196 object and purpose of the establishment of the Mississippi State
197 Veterans Home shall be to provide domiciliary care and other
198 related services for eligible veterans of the State of
199 Mississippi.

200 One or more additional veterans homes or domiciliaries are
201 hereby authorized to be established by the State Veterans Affairs
202 Board on sites in northern, central or southern Mississippi, to be
203 determined by the State Veterans Affairs Board, with the approval
204 of the Department of Finance and Administration, when funds are
205 made available for such purpose by any agency of the federal
206 government or other sources. The Veterans Affairs Board shall
207 give the three (3) regions, northern, southern and central
208 priority as to where the veterans home shall be located, with the
209 northern region having first priority, the southern region having
210 the next level priority and the central region being third in
211 order of priority. The Veterans Affairs Board shall establish and
212 operate the veterans home in Rankin County under the provisions of
213 Chapter 389, Laws of 2023. The object and purpose of the
214 establishment of such additional homes or domiciliaries shall be
215 to provide domiciliary care and other related services for
216 eligible veterans of the State of Mississippi. * * *

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



219 41-3-15. (1) (a) There shall be a State Department of
220 Health.

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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



292 mortality and morbidity rates and improving the status of maternal
293 and infant health; and

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

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

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

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

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



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

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

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

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

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

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

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

338 (d) To obtain, collect and preserve such information
339 relative to mortality, morbidity, disease and health as may be



340 useful in the discharge of its duties or may contribute to the
341 prevention of disease or the promotion of health in this state.

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

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

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



365 are less than Five Thousand Dollars (\$5,000.00). Money collected
366 by the board under this subparagraph (ii) shall be deposited to
367 the credit of the State General Fund of the State Treasury.

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

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

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

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

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

388 (5) (a) The State Board of Health shall have the authority,
389 in its discretion, to establish programs to promote the public



390 health, to be administered by the State Department of Health.
391 Specifically, those programs may include, but shall not be limited
392 to, programs in the following areas:

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



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

416 (xviii) Regulation of domestic and imported fish
417 for human consumption.

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



438 health services. This demonstration by the board that there are
439 other providers of adequate home health services in the area shall
440 be spread at length upon the minutes of the board at a regular or
441 special meeting of the board at least thirty (30) days before a
442 home health agency, office, branch office or clinic is proposed to
443 be closed or otherwise discontinue the providing of home health
444 services.

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

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

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

456 (i) To enter into capitalization grant agreements
457 with the United States Environmental Protection Agency, or any
458 successor agency thereto;

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



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

464 (iv) To establish and collect fees to defray the
465 reasonable costs of administering the revolving fund or emergency
466 fund if the State Board of Health determines that those costs will
467 exceed the limitations established in the federal Safe Drinking
468 Water Act, as amended. The administration fees may be included in
469 loan amounts to loan recipients for the purpose of facilitating
470 payment to the board; however, those fees may not exceed five
471 percent (5%) of the loan amount.

472 (7) Notwithstanding any other provision to the contrary, the
473 State Department of Health shall have the following specific
474 powers: The department shall issue a license to Alexander Milne
475 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
476 construction, conversion, expansion and operation of not more than
477 forty-five (45) beds for developmentally disabled adults who have
478 been displaced from New Orleans, Louisiana, with the beds to be
479 located in a certified ICF-MR facility in the City of Laurel,
480 Mississippi. There shall be no prohibition or restrictions on
481 participation in the Medicaid program for the person receiving the
482 license under this subsection (7). The license described in this
483 subsection shall expire five (5) years from the date of its issue.
484 The license authorized by this subsection shall be issued upon the
485 initial payment by the licensee of an application fee of



486 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
487 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
488 the license, to be paid as long as the licensee continues to
489 operate. The initial and monthly licensing fees shall be
490 deposited by the State Department of Health into the special fund
491 created under Section 41-7-188.

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

501 * * *

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



510 Department of Health into the special fund created under Section
511 41-7-188.

512 (* * * 10) Notwithstanding any other provision to the
513 contrary, the State Department of Health shall have the following
514 specific powers: The State Department of Health is authorized and
515 empowered, to revoke, immediately, the license and require closure
516 of any institution for the aged or infirm, including any other
517 remedy less than closure to protect the health and safety of the
518 residents of said institution or the health and safety of the
519 general public.

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

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

533 41-4-18. (1) Notwithstanding * * * any other section of
534 law, the Department of Mental Health shall have the authority to



535 contract with private and/or public entities to transfer beds
536 within Intermediate Care Facilities for the Mentally Retarded
537 owned and operated by the Department of Mental Health to locations
538 owned and operated by private and/or public entities for the
539 purpose of serving individuals with intellectual disabilities in
540 the settings most appropriate to meet their needs.

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

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

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



560 licensing agency. Licenses shall be posted in a conspicuous place
561 on the licensed premises.

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

564 41-9-23. Information received by the licensing agency
565 through filed reports, inspection, or as otherwise authorized
566 under Sections 41-9-1 through 41-9-35 shall not be disclosed
567 publicly in such manner as to identify individuals, except in a
568 proceeding involving the questions of licensure; however, the
569 licensing agency may utilize statistical data concerning types of
570 services and the utilization of these services for hospitals in
571 performing the * * * duties imposed upon it by * * * Section
572 41-9-29.

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

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

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

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

583 (b) Financial reports not otherwise exempt that are
584 required by state or federal statute or regulation to be filed



585 with the owner of the public hospital or with any other agency of
586 state or federal government; and

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

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

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

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

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

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

608 41-9-209. (1) Any hospital is authorized to seek
609 designation as a critical access hospital. Subject to federal



610 law, there shall be no requirement or limitation regarding the
611 distance that a critical access hospital must be located from
612 another hospital. The bed-size limit for a critical access
613 hospital is twenty-five (25) operational acute care beds, and the
614 average maximum length of stay for patients in a critical access
615 hospital is ninety-six (96) hours, unless a longer period is
616 required because of inclement weather or other emergency
617 conditions. In the event the critical access hospital is a swing
618 bed facility, any of the twenty-five (25) acute care beds allowed
619 in a critical access hospital may be used for the provision of
620 extended care services or acute care inpatient services so long as
621 the furnishing of such services does not exceed twenty-five (25)
622 beds and so long as the hospital does not seek Medicaid
623 reimbursement for more than fifteen (15) acute care inpatient
624 beds.

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



635 distinct-part skilled nursing facility for purposes of the allowed
636 twenty-five (25) acute care inpatient beds.

637 * * * (3) A critical access hospital may establish a
638 distinct-part psychiatric unit and a distinct-part rehabilitation
639 unit, each of which must be certified under Title XVIII of the
640 federal Social Security Act and each of which may consist of no
641 more than ten (10) beds. No bed in the critical access hospital's
642 distinct-part psychiatric unit or distinct-part rehabilitation
643 unit shall be counted for purposes of the twenty-five (25) bed
644 limitation. Each distinct-part unit in a critical access hospital
645 must comply with all applicable state licensure laws and federal
646 certification laws.

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

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



660 appropriate, issue the hospital a new license reflecting the new
661 contingent of beds. * * *

662 This section shall apply to all hospitals that are designated
663 as critical access hospitals on July 1, 2003, and all hospitals
664 that may become designated as critical access hospitals after July
665 1, 2003.

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

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



685 licensee. Each licensee shall designate, in writing, one (1)
686 individual person as the responsible party for the conducting of
687 the business of the home health agency with the licensing agency.

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

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

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

702 41-73-5. When used in this act, unless the context requires
703 a different definition, the following terms shall have the
704 following meanings:

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

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



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

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

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

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

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

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



735 (v) Any and all costs paid or incurred in
736 connection with the financing of such hospital equipment,
737 including out-of-pocket expenses, the cost of financing, legal,
738 accounting, financial advisory and consulting fees, expenses and
739 disbursements; the cost of any policy of insurance; the cost of
740 printing, engraving and reproduction services; and the cost of the
741 initial or acceptance fee of any trustee or paying agent;

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

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

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

757 (i) All costs of the establishment, demolition,
758 site development of new and rehabilitated buildings,
759 rehabilitation, reconstruction repair, erection, building,



760 construction, remodeling, adding to and furnishing of any such
761 hospital facilities and all costs incident or related thereto;

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

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

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

780 (v) Any and all costs paid or incurred in
781 connection with the financing of such hospital facilities,
782 including out-of-pocket expenses, the cost of financing, legal,
783 accounting, financial advisory and consulting fees, expenses and
784 disbursement; the cost of any policy of insurance; the cost of



785 printing, engraving and reproduction services; and the cost of the
786 initial or acceptance fee of any trustee or paying agent;

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

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

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

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



810 at the time of, or is to be provided after the making of, such
811 finding. * * *

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

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

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

833 The use of singular terms herein shall also include the
834 plural of such term and the use of a plural term herein shall also



835 include the singular of such term unless the context clearly
836 requires a different connotation.

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

839 41-75-1. For the purpose of this chapter:

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



860 holding, leasing or management company and intends to seek federal
861 certification as an ambulatory facility, then the facility is
862 considered to be "freestanding" and must comply with all licensing
863 agency ambulatory surgical licensure standards governing a
864 "freestanding" facility.

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

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

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



885 chapter regarding a "freestanding" ambulatory surgical facility.
886 Further, the facility must be a separate, identifiable entity and
887 must be physically, administratively and financially independent
888 and distinct from other operations of any other health facility,
889 and shall maintain a separate organized medical and administrative
890 staff. * * *

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

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



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

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

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



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

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

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

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

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

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



959 paragraph on the date it begins operation and the property on
960 which a church, school or kindergarten is located within one
961 thousand five hundred (1,500) feet from the facility.

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

971 (j) "Post-acute residential brain injury rehabilitation
972 facility" is a facility containing no more than twelve (12) beds
973 providing medically directed long-term but nonacute rehabilitation
974 to patients who have acquired brain injury. In order to be
975 eligible for licensure under this chapter, the post-acute
976 residential brain injury rehabilitation facility shall be located
977 at least twenty-five (25) miles from the nearest acute care
978 rehabilitation hospital and at least five (5) miles from the
979 boundaries of any municipality having a population of ten thousand
980 (10,000) or more, according to the most recent federal decennial
981 census, at the time that facility is established.

982 (k) "Pilot freestanding emergency room" is a facility
983 open twenty-four (24) hours a day for the treatment of urgent and



984 emergent medical conditions and that is not located on a hospital
985 campus. In order to be eligible for licensure under this chapter,
986 the pilot freestanding emergency room shall be located at least
987 fifteen (15) miles from the nearest hospital-based emergency room
988 in a county without emergency hospital care that is open
989 twenty-four (24) hours a day.

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

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

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

1000 41-75-9. Upon receipt of an application for license and the
1001 license fee, the licensing agency shall issue a license if the
1002 applicant and the institutional facilities meet the requirements
1003 established under this chapter * * *. A license, unless suspended
1004 or revoked, shall be renewable annually upon payment of a renewal
1005 fee of Three Thousand Dollars (\$3,000.00), which shall be paid to
1006 the licensing agency, and upon filing by the licensee and approval
1007 by the licensing agency of an annual report upon such uniform
1008 dates and containing such information in such form as the



1009 licensing agency requires. Any increase in the fee charged by the
1010 licensing agency under this section shall be in accordance with
1011 the provisions of Section 41-3-65. Each license shall be issued
1012 only for the premises and person or persons named in the
1013 application and shall not be transferable or assignable. Licenses
1014 shall be posted in a conspicuous place on the licensed premises.

1015 **SECTION 18.** Section 41-75-25, Mississippi Code of 1972, is
1016 amended as follows:

1017 41-75-25. Any person or persons or other entity or entities
1018 establishing, managing or operating an ambulatory surgical
1019 facility or conducting the business of an ambulatory surgical
1020 facility without the required license, or which otherwise violate
1021 any of the provisions of this chapter or the "Mississippi Health
1022 Care Commission Law of 1979," as amended, or the rules,
1023 regulations or standards promulgated in furtherance of any law in
1024 which the * * * licensing agency has authority therefor shall be
1025 subject to the following penalties and sanctions * * *:

1026 (a) Revocation of the license of the ambulatory
1027 surgical facility or a designated section, component or service
1028 thereof; or

1029 (b) Nonlicensure of a specific or designated service
1030 offered by the ambulatory surgical facility.

1031 In addition, any violation of any provision of this chapter
1032 or any rules or regulations promulgated in furtherance thereof by
1033 intent, fraud, deceit, unlawful design, willful and/or deliberate



1034 misrepresentation, or by careless, negligent or incautious
1035 disregard for such statutes or rules and regulations, either by
1036 persons acting individually or in concert with others, shall
1037 constitute a misdemeanor and shall be punishable by a fine not to
1038 exceed One Thousand Dollars (\$1,000.00) for each offense. Each
1039 day of continuing violation shall be considered a separate
1040 offense. The venue for prosecution of any such violation shall be
1041 in any county of the state in which any such violation, or portion
1042 thereof, occurred.

1043 **SECTION 19.** Section 41-77-1, Mississippi Code of 1972, is
1044 amended as follows:

1045 41-77-1. For purposes of this chapter:

1046 (a) "Birthing center" * * * means a publicly or
1047 privately owned facility, place or institution constructed,
1048 renovated, leased or otherwise established where nonemergency
1049 births are planned to occur away from the mother's usual residence
1050 following a documented period of prenatal care for a normal
1051 uncomplicated pregnancy which has been determined to be low risk
1052 through a formal risk scoring examination. Care provided in a
1053 birthing center shall be provided by a licensed physician, or
1054 certified nurse midwife, and a registered nurse. Services
1055 provided in a birthing center shall be limited in the following
1056 manner: (i) surgical services shall be limited to those normally
1057 performed during uncomplicated childbirth, such as episiotomy and
1058 repair, and shall not include operative obstetrics or caesarean



1059 sections; (ii) labor shall not be inhibited, stimulated or
1060 augmented with chemical agents during the first or second stage of
1061 labor; (iii) systemic analgesia may be administered and local
1062 anesthesia for * * * pudendal block and episiotomy repair may be
1063 performed. General and conductive anesthesia shall not be
1064 administered at birthing centers; (iv) patients shall not remain
1065 in the facility in excess of twenty-four (24) hours.

1066 Hospitals are excluded from the definition of a "birthing
1067 center" unless they choose to and are qualified to designate a
1068 portion or part of the hospital as a birthing center, and nothing
1069 herein shall be construed as referring to the usual service
1070 provided the pregnant female in the obstetric-gynecology service
1071 of an acute care hospital. Such facility or center, as heretofore
1072 stated, shall include the offices of physicians in private
1073 practice alone or in groups of two (2) or more; and such facility
1074 or center rendering service to pregnant female persons, as stated
1075 heretofore and by the rules and regulations promulgated by the
1076 licensing agency in furtherance thereof, shall be deemed to be a
1077 "birthing center" whether using a similar or different name. Such
1078 center or facility if in any manner is deemed to be or considered
1079 to be operated or owned by a hospital or a hospital holding
1080 leasing or management company, for profit or not for profit, is
1081 required to comply with all birthing center standards governing a
1082 "hospital affiliated" birthing center as adopted by the licensing
1083 authority.



1084 (b) "Hospital affiliated" birthing center * * * means a
1085 separate and distinct unit of a hospital or a building owned,
1086 leased, rented or utilized by a hospital and located in the same
1087 county as the hospital for the purpose of providing the service of
1088 a "birthing center." Such center or facility is not required to
1089 be licensed separately, and may operate under the license issued
1090 to the hospital if it is in compliance with Section 41-9-1 et
1091 seq., where applicable, and the rules and regulations promulgated
1092 by the licensing agency in furtherance thereof.

1093 (c) "Freestanding" birthing center * * * means a
1094 separate and distinct facility or center or a separate and
1095 distinct organized unit of a hospital or other * * * entity for
1096 the purpose of performing the service of a "birthing center."
1097 Such facility or center must be separately licensed and must
1098 comply with all licensing standards promulgated by the licensing
1099 agency by virtue of this chapter. Further, such facility or
1100 center must be a separate, identifiable entity and must be
1101 physically, administratively and financially independent from
1102 other operations of any hospital or other health care facility or
1103 service and shall maintain a separate and required staff,
1104 including administrative staff. * * *

1105 (d) "Licensing agency" * * * means the State Department
1106 of Health.

1107 **SECTION 20.** Section 41-77-5, Mississippi Code of 1972, is
1108 amended as follows:



1109 41-77-5. No person * * * or other entity, acting severally
1110 or jointly with any other person or entity, shall establish,
1111 conduct or maintain a "birthing center" in this state without a
1112 license under this chapter.

1113 **SECTION 21.** Section 41-77-21, Mississippi Code of 1972, is
1114 amended as follows:

1115 41-77-21. Any applicant or licensee aggrieved by the
1116 decision of the licensing agency after a hearing may, within
1117 thirty (30) days after the mailing or serving of notice of the
1118 decision as provided in Section 43-11-11, * * * file a notice of
1119 appeal to the Chancery Court of the First Judicial District of
1120 Hinds County or in the chancery court of the county in which the
1121 institution is located or proposed to be located. * * *
1122 Thereupon, the licensing agency shall * * * certify and file with
1123 the court a copy of the record and decision, including the
1124 transcript of the hearings in which the decision is based. No new
1125 or additional evidence shall be introduced in court; the case
1126 shall be determined upon the record certified to the court. The
1127 court may sustain or dismiss the appeal, modify or vacate the
1128 order complained of in whole or in part, as the case may be; but
1129 in case the order is wholly or partly vacated, the court may also,
1130 in its discretion, remand the matter to the licensing agency for
1131 such further proceedings, not inconsistent with the court's order,
1132 as, in the opinion of the court, justice may require. The order
1133 may not be vacated or set aside, either in whole or in part,



1134 except for errors of law, unless the court finds that the order of
1135 the licensing agency is not supported by substantial evidence, is
1136 contrary to the manifest weight of the evidence, is in excess of
1137 the statutory authority or jurisdiction of the licensing agency,
1138 or violates any vested constitutional rights of any party involved
1139 in the appeal. Pending final disposition of the matter, the
1140 status quo of the applicant or licensee shall be preserved, except
1141 as the court otherwise orders in the public interest. Rules with
1142 respect to court costs in other cases in chancery shall apply
1143 equally to cases hereunder. Appeals in accordance with law may be
1144 had to the Supreme Court of the State of Mississippi from any
1145 final judgment of the chancery court.

1146 **SECTION 22.** Section 41-77-23, Mississippi Code of 1972, is
1147 amended as follows:

1148 41-77-23. Any person or persons or other entity or entities
1149 establishing, managing or operating a "birthing center" or
1150 conducting the business of a "birthing center" without the
1151 required license, or which otherwise violate any of the provisions
1152 of this chapter * * * or the rules, regulations or standards
1153 promulgated in furtherance of any law in which the * * * licensing
1154 agency has authority therefor, shall be subject to the * * *
1155 following:

1156 (a) Revocation of the license of the birthing center or
1157 a designated section, component or service thereof; or



1158 (b) Nonlicensure of a specific or designated service
1159 offered by the birthing center.

1160 In addition, any violation of any provision of this chapter
1161 or any rules or regulations promulgated in furtherance thereof by
1162 intent, fraud, deceit, unlawful design, willful and/or deliberate
1163 misrepresentation, or by careless, negligent or incautious
1164 disregard for such statutes or rules and regulations, either by
1165 persons acting individually or in concert with others, shall
1166 constitute a misdemeanor and shall be punishable by a fine not to
1167 exceed One Thousand Dollars (\$1,000.00) for each offense. Each
1168 day of continuing violation shall be considered a separate
1169 offense. The venue for prosecution of any such violation shall be
1170 in any county of the state in which any such violation, or portion
1171 thereof, occurred.

1172 **SECTION 23.** Section 41-77-25, Mississippi Code of 1972, is
1173 amended as follows:

1174 41-77-25. Upon receipt of an application for license and the
1175 license fee, the licensing agency shall issue a license if the
1176 applicant and the institutional facilities meet the requirements
1177 established under this chapter * * *. A license, unless suspended
1178 or revoked, shall be renewable annually upon payment of a renewal
1179 fee of Three Hundred Dollars (\$300.00), which shall be paid to the
1180 licensing agency, and upon filing by the licensee and approval by
1181 the licensing agency of an annual report upon such uniform dates
1182 and containing such information in such form as the licensing



1183 agency requires. Any increase in the fee charged by the licensing
1184 agency under this section shall be in accordance with the
1185 provisions of Section 41-3-65. Each license shall be issued only
1186 for the premises and person or persons named in the application
1187 and shall not be transferable or assignable. Licenses shall be
1188 posted in a conspicuous place on the licensed premises.

1189 **SECTION 24.** Section 43-11-9, Mississippi Code of 1972, is
1190 amended as follows:

1191 43-11-9. (1) Upon receipt of an application for license and
1192 the license fee, the licensing agency shall issue a license if the
1193 applicant and the institutional facilities meet the requirements
1194 established under this chapter * * *. A license, unless suspended
1195 or revoked, shall be renewable annually upon payment by (a) the
1196 licensee of an institution for the aged or infirm, except for
1197 personal care homes, of a renewal fee of Twenty Dollars (\$20.00)
1198 for each bed in the institution, with a minimum fee per
1199 institution of Two Hundred Dollars (\$200.00), or (b) the licensee
1200 of a personal care home of a renewal fee of Fifteen Dollars
1201 (\$15.00) for each bed in the institution, with a minimum fee per
1202 institution of One Hundred Dollars (\$100.00), which shall be paid
1203 to the licensing agency, and upon filing by the licensee and
1204 approval by the licensing agency of an annual report upon such
1205 uniform dates and containing such information in such form as the
1206 licensing agency prescribes by regulation. Any increase in the
1207 fee charged by the licensing agency under this subsection shall be



1208 in accordance with the provisions of Section 41-3-65. Each
1209 license shall be issued only for the premises and person or
1210 persons or other legal entity or entities named in the application
1211 and shall not be transferable or assignable except with the
1212 written approval of the licensing agency. Licenses shall be
1213 posted in a conspicuous place on the licensed premises.

1214 (2) A fee known as a "User Fee" shall be applicable and
1215 shall be paid to the licensing agency as set out in subsection (1)
1216 of this section. Any increase in the fee charged by the licensing
1217 agency under this subsection shall be in accordance with the
1218 provisions of Section 41-3-65. This user fee shall be assessed
1219 for the purpose of the required reviewing and inspections of the
1220 proposal of any institution in which there are additions,
1221 renovations, modernizations, expansion, alterations, conversions,
1222 modifications or replacement of the entire facility involved in
1223 such proposal. This fee includes the reviewing of architectural
1224 plans in all steps required. There shall be a minimum user fee of
1225 Fifty Dollars (\$50.00) and a maximum user fee of Five Thousand
1226 Dollars (\$5,000.00).

1227 (3) No governmental entity or agency shall be required to
1228 pay the fee or fees set forth in this section.

1229 **SECTION 25.** Section 43-11-19, Mississippi Code of 1972, is
1230 amended as follows:

1231 43-11-19. Information received by the licensing agency
1232 through filed reports, inspection, or as otherwise authorized



1233 under this chapter, shall not be disclosed publicly in such manner
1234 as to identify individuals, except in a proceeding involving the
1235 questions of licensure; however, the licensing agency may utilize
1236 statistical data concerning types of services and the utilization
1237 of those services for institutions for the aged or infirm in
1238 performing the * * * duties imposed upon it by * * * Section
1239 43-11-21.

1240 **SECTION 26.** Section 43-13-117.5, Mississippi Code of 1972,
1241 is amended as follows:

1242 43-13-117.5. (1) The Division of Medicaid is authorized to
1243 reimburse for services provided to eligible Medicaid beneficiaries
1244 by a licensed freestanding psychiatric hospital in a method and
1245 manner to be determined by the division in accordance with federal
1246 law and federal regulations. The division may seek any necessary
1247 waivers * * * or make any required amendments to its State
1248 Plan * * * as necessary to provide the services authorized under
1249 this section.

1250 (2) As used in this section * * *:

1251 (a) "Psychiatric hospital" * * * means an
1252 institution * * * which is primarily engaged in providing to
1253 inpatients, by or under the supervision of a physician,
1254 psychiatric services for the diagnosis and treatment of persons
1255 with mental illness.

1256 (b) "Hospital" means an institution which is primarily
1257 engaged in providing to inpatients, by or under the supervision of



1258 physicians, diagnostic services and therapeutic services for
1259 medical diagnoses, treatment and care of injured, disabled or sick
1260 persons, or rehabilitation services for the rehabilitation of
1261 injured, disabled or sick persons. Such term does not include
1262 psychiatric hospitals.

1263 (3) It is the intent of the Legislature that the cost of
1264 providing services to individuals in a psychiatric hospital shall
1265 not exceed the cost of providing the same services to individuals
1266 in a hospital * * *.

1267 **SECTION 27.** Section 57-117-5, Mississippi Code of 1972, is
1268 amended as follows:

1269 57-117-5. (1) The MDA may certify an area as a health care
1270 industry zone if the following requirements are met:

1271 (a) The area is located within:

1272 (i) Three (3) contiguous counties which have * * *
1273 hospitals located within the counties that have more than three
1274 hundred seventy-five (375) acute care hospital beds; and/or

1275 (ii) A county which has a hospital with a minimum
1276 capital investment of Two Hundred Fifty Million Dollars
1277 (\$250,000,000.00) and for which construction is completed before
1278 July 1, 2017;

1279 (b) The health care industry facility is located within
1280 a five-mile radius of:

1281 (i) A facility with a * * * license for hospital
1282 beds; and/or



1283 (ii) A university or college that is:
1284 1. Accredited by the Southern Association of
1285 Colleges and Schools and awards degrees and/or trains workers for
1286 jobs in health care or pharmaceutical fields of study and/or work,
1287 and
1288 2. Located along or near Mississippi Highway
1289 67 within a master planned community as defined in Section
1290 19-5-10; and
1291 (c) The zoning of the local government unit, if
1292 applicable, allows the construction or operation in the proposed
1293 health care industry zone of the health care industry facility.

1294 * * *

1295 (* * *2) The MDA may adopt and promulgate such rules and
1296 regulations, in compliance with the Mississippi Administrative
1297 Procedures Law, as are necessary for the efficient and effective
1298 administration of this section in keeping with the purposes for
1299 which it is enacted.

1300 **SECTION 28.** Section 41-9-311, Mississippi Code of 1972,
1301 which provides that nothing in the Rural Health Availability Act
1302 exempts hospitals from compliance with the certificate of need
1303 law, is repealed.

1304 **SECTION 29.** This act shall take effect and be in force from
1305 and after July 1, 2024.

