

By: Representative Foster

To: Public Health and Human Services

HOUSE BILL NO. 1179

1 AN ACT TO AMEND SECTIONS 41-7-173, 41-7-185, 41-7-187,
 2 41-7-189, 41-7-190, 41-7-191, 41-7-193, 41-7-201, 41-7-202,
 3 41-7-205 AND 41-7-207, MISSISSIPPI CODE OF 1972, TO REVISE THE
 4 HEALTH CARE CERTIFICATE OF NEED LAW TO REMOVE HEALTH CARE SERVICES
 5 AND EQUIPMENT FROM THE REQUIREMENT FOR THE ISSUANCE OF A
 6 CERTIFICATE OF NEED, SO THAT ONLY CERTAIN HEALTH CARE FACILITIES
 7 WILL REQUIRE CERTIFICATE OF NEED REVIEW; TO PROVIDE THAT ABORTION
 8 FACILITIES WILL REQUIRE A CERTIFICATE OF NEED; TO AMEND SECTIONS
 9 41-4-18, 41-73-5, 41-75-1, 41-75-5, 41-75-9 AND 41-75-25,
 10 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
 11 AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is
 14 amended as follows:

15 41-7-173. For the purposes of Section 41-7-171 et seq., the
 16 following words shall have the meanings ascribed herein, unless
 17 the context otherwise requires:

18 (a) "Affected person" means (i) the applicant; (ii) a
 19 person residing within the geographic area to be served by the
 20 applicant's proposal; (iii) a person who regularly uses health
 21 care facilities or HMOs located in the geographic area of the
 22 proposal which provide similar service to that which is proposed;



23 (iv) health care facilities and HMOs which have, prior to receipt
24 of the application under review, formally indicated an intention
25 to provide service similar to that of the proposal being
26 considered at a future date; (v) third-party payers who reimburse
27 health care facilities located in the geographical area of the
28 proposal; or (vi) any agency that establishes rates for health
29 care services or HMOs located in the geographic area of the
30 proposal.

31 (b) "Certificate of need" means a written order of the
32 State Department of Health setting forth the affirmative finding
33 that a proposal in prescribed application form, sufficiently
34 satisfies the plans, standards and criteria prescribed for * * *
35 the project by Section 41-7-171 et seq., and by rules and
36 regulations promulgated * * * under those sections by the State
37 Department of Health.

38 * * *

39 (* * * c) "Commencement of construction" means that all
40 of the following have been completed with respect to a proposal or
41 project proposing construction, renovating, remodeling or
42 alteration:

43 (i) A legally binding written contract has been
44 consummated by the proponent and a lawfully licensed contractor to
45 construct and/or complete the intent of the proposal within a
46 specified period of time in accordance with final architectural



47 plans which have been approved by the licensing authority of the
48 State Department of Health;

49 (ii) Any and all permits and/or approvals deemed
50 lawfully necessary by all authorities with responsibility for such
51 have been secured; and

52 (iii) Actual bona fide undertaking of the subject
53 proposal has commenced, and a progress payment of at least one
54 percent (1%) of the total cost price of the contract has been paid
55 to the contractor by the proponent, and the requirements of this
56 paragraph (e) have been certified to in writing by the State
57 Department of Health.

58 Force account expenditures, such as deposits, securities,
59 bonds, et cetera, may, in the discretion of the State Department
60 of Health, be excluded from any or all of the provisions of
61 defined commencement of construction.

62 (* * * d) "Consumer" means an individual who is not a
63 provider of health care as defined in paragraph (* * * j) of this
64 section.

65 * * *

66 (* * * e) "Health care facility" includes hospitals,
67 psychiatric hospitals, chemical dependency hospitals, skilled
68 nursing facilities, end-stage renal disease (ESRD) facilities,
69 including freestanding hemodialysis units, intermediate care
70 facilities, * * * abortion facilities, intermediate care
71 facilities for the mentally retarded, home health agencies,



72 psychiatric residential treatment facilities, pediatric skilled
73 nursing facilities, long-term care hospitals, comprehensive
74 medical rehabilitation facilities, including facilities owned or
75 operated by the state or a political subdivision or
76 instrumentality of the state, but does not include Christian
77 Science sanatoriums operated or listed and certified by the First
78 Church of Christ, Scientist, Boston, Massachusetts. This
79 definition shall not apply to facilities for the private practice,
80 either independently or by incorporated medical groups, of
81 physicians, dentists or health care professionals except where
82 such facilities are an integral part of an institutional health
83 service. The various health care facilities listed in this
84 paragraph shall be defined as follows:

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

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



96 (iii) "Chemical dependency hospital" means an
97 institution which is primarily engaged in providing to inpatients,
98 by or under the supervision of a physician, medical and related
99 services for the diagnosis and treatment of chemical dependency
100 such as alcohol and drug abuse.

101 (iv) "Skilled nursing facility" means an
102 institution or a distinct part of an institution which is
103 primarily engaged in providing to inpatients skilled nursing care
104 and related services for patients who require medical or nursing
105 care or rehabilitation services for the rehabilitation of injured,
106 disabled or sick persons.

107 (v) "End-stage renal disease (ESRD) facilities"
108 means kidney disease treatment centers, which includes
109 freestanding hemodialysis units and limited care facilities. The
110 term "limited care facility" generally refers to an
111 off-hospital-premises facility, regardless of whether it is
112 provider or nonprovider operated, which is engaged primarily in
113 furnishing maintenance hemodialysis services to stabilized
114 patients.

115 (vi) "Intermediate care facility" means an
116 institution which provides, on a regular basis, health-related
117 care and services to individuals who do not require the degree of
118 care and treatment which a hospital or skilled nursing facility is
119 designed to provide, but who, because of their mental or physical



120 condition, require health-related care and services (above the
121 level of room and board).

122 (vii) * * * "Abortion facility" means a facility
123 that is operating substantially for the purpose of performing
124 abortions, is a separate identifiable legal entity from any other
125 health care facility, and requires a license as an abortion
126 facility under Section 41-75-1 et seq.

127 (viii) "Intermediate care facility for the
128 mentally retarded" means an intermediate care facility that
129 provides health or rehabilitative services in a planned program of
130 activities to persons with an intellectual disability, also
131 including, but not limited to, cerebral palsy and other conditions
132 covered by the Federal Developmentally Disabled Assistance and
133 Bill of Rights Act, Public Law 94-103.

134 (ix) "Home health agency" means a public or
135 privately owned agency or organization, or a subdivision of such
136 an agency or organization, properly authorized to conduct business
137 in Mississippi, which is primarily engaged in providing to
138 individuals at the written direction of a licensed physician, in
139 the individual's place of residence, skilled nursing services
140 provided by or under the supervision of a registered nurse
141 licensed to practice in Mississippi, and one or more of the
142 following services or items:

- 143 1. Physical, occupational or speech therapy;
144 2. Medical social services;



145 3. Part-time or intermittent services of a
146 home health aide;

147 4. Other services as approved by the
148 licensing agency for home health agencies;

149 5. Medical supplies, other than drugs and
150 biologicals, and the use of medical appliances; or

151 6. Medical services provided by an intern or
152 resident-in-training at a hospital under a teaching program of
153 such hospital.

154 Further, all skilled nursing services and those services
155 listed in items 1 through 4 of this subparagraph (ix) must be
156 provided directly by the licensed home health agency. For
157 purposes of this subparagraph, "directly" means either through an
158 agency employee or by an arrangement with another individual not
159 defined as a health care facility.

160 This subparagraph (ix) shall not apply to health care
161 facilities which had contracts for the above services with a home
162 health agency on January 1, 1990.

163 (x) "Psychiatric residential treatment facility"
164 means any nonhospital establishment with permanent licensed
165 facilities which provides a twenty-four-hour program of care by
166 qualified therapists, including, but not limited to, duly licensed
167 mental health professionals, psychiatrists, psychologists,
168 psychotherapists and licensed certified social workers, for
169 emotionally disturbed children and adolescents referred to such



170 facility by a court, local school district or by the Department of
171 Human Services, who are not in an acute phase of illness requiring
172 the services of a psychiatric hospital, and are in need of such
173 restorative treatment services. For purposes of this
174 subparagraph, the term "emotionally disturbed" means a condition
175 exhibiting one or more of the following characteristics over a
176 long period of time and to a marked degree, which adversely
177 affects educational performance:

178 1. An inability to learn which cannot be
179 explained by intellectual, sensory or health factors;

180 2. An inability to build or maintain
181 satisfactory relationships with peers and teachers;

182 3. Inappropriate types of behavior or
183 feelings under normal circumstances;

184 4. A general pervasive mood of unhappiness or
185 depression; or

186 5. A tendency to develop physical symptoms or
187 fears associated with personal or school problems. An
188 establishment furnishing primarily domiciliary care is not within
189 this definition.

190 (xi) "Pediatric skilled nursing facility" means an
191 institution or a distinct part of an institution that is primarily
192 engaged in providing to inpatients skilled nursing care and
193 related services for persons under twenty-one (21) years of age



194 who require medical or nursing care or rehabilitation services for
195 the rehabilitation of injured, disabled or sick persons.

196 (xii) "Long-term care hospital" means a
197 freestanding, Medicare-certified hospital that has an average
198 length of inpatient stay greater than twenty-five (25) days, which
199 is primarily engaged in providing chronic or long-term medical
200 care to patients who do not require more than three (3) hours of
201 rehabilitation or comprehensive rehabilitation per day, and has a
202 transfer agreement with an acute care medical center and a
203 comprehensive medical rehabilitation facility. Long-term care
204 hospitals shall not use rehabilitation, comprehensive medical
205 rehabilitation, medical rehabilitation, sub-acute rehabilitation,
206 nursing home, skilled nursing facility or sub-acute care facility
207 in association with its name.

208 (xiii) "Comprehensive medical rehabilitation
209 facility" means a hospital or hospital unit that is licensed
210 and/or certified as a comprehensive medical rehabilitation
211 facility which provides specialized programs that are accredited
212 by the Commission on Accreditation of Rehabilitation Facilities
213 and supervised by a physician board certified or board eligible in
214 physiatry or other doctor of medicine or osteopathy with at least
215 two (2) years of training in the medical direction of a
216 comprehensive rehabilitation program that:

217 1. Includes evaluation and treatment of
218 individuals with physical disabilities;



- 219 2. Emphasizes education and training of
220 individuals with disabilities;
- 221 3. Incorporates at least the following core
222 disciplines:
- 223 (i) Physical Therapy;
 - 224 (ii) Occupational Therapy;
 - 225 (iii) Speech and Language Therapy;
 - 226 (iv) Rehabilitation Nursing; and
- 227 4. Incorporates at least three (3) of the
228 following disciplines:
- 229 (i) Psychology;
 - 230 (ii) Audiology;
 - 231 (iii) Respiratory Therapy;
 - 232 (iv) Therapeutic Recreation;
 - 233 (v) Orthotics;
 - 234 (vi) Prosthetics;
 - 235 (vii) Special Education;
 - 236 (viii) Vocational Rehabilitation;
 - 237 (ix) Psychotherapy;
 - 238 (x) Social Work;
 - 239 (xi) Rehabilitation Engineering.

240 These specialized programs include, but are not limited to:
241 spinal cord injury programs, head injury programs and infant and
242 early childhood development programs.



243 (* * *f) "Health maintenance organization" or "HMO"
244 means a public or private organization organized under the laws of
245 this state or the federal government which:

246 (i) Provides or otherwise makes available to
247 enrolled participants health care services, including
248 substantially the following basic health care services: usual
249 physician services, hospitalization, laboratory, x-ray, emergency
250 and preventive services, and out-of-area coverage;

251 (ii) Is compensated (except for copayments) for
252 the provision of the basic health care services listed in
253 subparagraph (i) of this paragraph to enrolled participants on a
254 predetermined basis; and

255 (iii) Provides physician services primarily:

256 1. Directly through physicians who are either
257 employees or partners of such organization; or

258 2. Through arrangements with individual
259 physicians or one or more groups of physicians (organized on a
260 group practice or individual practice basis).

261 (* * *g) "Health service area" means a geographic area
262 of the state designated in the State Health Plan as the area to be
263 used in planning for specified health care facilities * * * and to
264 be used when considering certificate of need applications to
265 provide health care facilities * * *.

266 * * *



267 (* * * h) "State Department of Health" shall mean the
268 state agency created under Section 41-3-15 * * *.

269 * * *

270 (* * * i) "Person" means an individual, a trust or
271 estate, partnership, corporation (including associations,
272 joint-stock companies and insurance companies), the state or a
273 political subdivision or instrumentality of the state.

274 (* * * j) "Provider" shall mean any person who is a
275 provider or representative of a provider of health care * * *
276 requiring a certificate of need under Section 41-7-171 et seq., or
277 who has any financial or indirect interest in any provider
278 of * * * health care.

279 * * *

280 (* * * k) "Secretary" means the Secretary of Health and
281 Human Services, and any officer or employee of the Department of
282 Health and Human Services to whom the authority involved has been
283 delegated.

284 (* * * l) "State Health Plan" means the sole and
285 official statewide health plan for Mississippi * * * that
286 identifies priority state health needs and establishes standards
287 and criteria for health-related activities * * * that require
288 certificate of need review in compliance with Section 41-7-191.

289 * * *

290 **SECTION 2.** Section 41-7-185, Mississippi Code of 1972, is
291 amended as follows:



292 41-7-185. In carrying out its functions under Section
293 41-7-171 et seq., the State Department of Health is * * *
294 empowered to:

295 (a) Make applications for and accept funds from the
296 secretary and other federal and state agencies and to receive and
297 administer such other funds for the planning or provision of
298 health facilities or health care as are appropriate to the
299 accomplishment of the purposes of Section 41-7-171 et seq. * * *,
300 and to contract with the secretary to accept funds to administer
301 planning activities on the community, regional or state level;

302 (b) With the approval of the secretary, delegate to or
303 contract with any mutually agreeable department, division or
304 agency of the state, the federal government, or any political
305 subdivision of either, or any private corporation, organization or
306 association chartered by the Secretary of State of Mississippi,
307 authority for administering any programs, duties or functions
308 provided for in Section 41-7-171 * * * et seq.;

309 (c) Prescribe and promulgate such reasonable rules and
310 regulations as may be necessary to the implementation of the
311 purposes of Section 41-7-171 * * * et seq., complying with Section
312 25-43- * * * 1.101 * * * et seq.;

313 (d) Require providers of * * * home health care
314 services provided through a home health agency and any other
315 provider of health care requiring a certificate of need to submit
316 or make available statistical information or such other



317 information requested by the State Department of Health, but not
318 information that would constitute an unwarranted invasion of the
319 personal privacy of any individual person or place the provider in
320 jeopardy of legal action by a third party;

321 (e) Conduct such other hearing or hearings in addition
322 to those provided for in Section 41-7-197, and enter such further
323 order or orders, and with approval of the Governor enter into such
324 agreement or agreements with the secretary as may be reasonably
325 necessary to the realization by the people of Mississippi of the
326 full benefits of Acts of Congress;

327 (f) In its discretion, contract with the secretary, or
328 terminate any such contract, for the administration of the
329 provisions, programs, duties and functions of Section 1122 of
330 Public Law 92-603; but the State Department of Health shall not be
331 relieved of matters of accountability, obligation or
332 responsibility that accrued to the department by virtue of prior
333 contracts and/or statutes;

334 (g) Prepare, review at least triennially, and revise,
335 as necessary, a State Health Plan, as defined in Section 41-7-173,
336 which shall be approved by the Governor before it becomes
337 effective.

338 **SECTION 3.** Section 41-7-187, Mississippi Code of 1972, is
339 amended as follows:

340 41-7-187. The State Department of Health is hereby
341 authorized to develop and implement a statewide health certificate



342 of need program. The State Department of Health is authorized and
343 empowered to adopt by rule and regulation:

344 (a) Criteria, standards and plans to be used in
345 evaluating applications for certificates of need;

346 (b) Effective standards to determine when a person,
347 facility or organization must apply for a certificate of need; and

348 * * *

349 (* * *c) Review procedures for conducting reviews of
350 applications for certificates of need.

351 **SECTION 4.** Section 41-7-189, Mississippi Code of 1972, is
352 amended as follows:

353 41-7-189. (1) * * * Before review of * * * proposals
354 requiring a certificate of need, the State Department of Health
355 shall disseminate to all health care facilities and health
356 maintenance organizations within the state, and shall publish in
357 one or more newspapers of general circulation in the state, a
358 description of the scope of coverage of the * * * certificate of
359 need program. Whenever the scope of such coverage is revised, the
360 State Department of Health shall disseminate and publish a revised
361 description thereof in like manner.

362 (2) Selected statistical data and information obtained by
363 the State Department of Health as the licensing agency for health
364 care facilities requiring licensure by the state and as the agency
365 which provides certification for the Medicaid and/or Medicare
366 program, may be utilized by the department in performing the



367 statutory duties imposed upon it by any law over which it has
368 authority, and regulations necessarily promulgated for such
369 facilities to participate in the Medicaid and/or Medicare
370 program; * * * however, * * * the names of individual patients
371 shall not be revealed except in hearings or judicial proceedings
372 regarding questions of licensure.

373 **SECTION 5.** Section 41-7-190, Mississippi Code of 1972, is
374 amended as follows:

375 41-7-190. No corporation, foreign or domestic, partnership,
376 individual(s) or association of such entities or of persons
377 whatsoever, or any combination thereof, shall own, possess or
378 exercise control over, in any manner, more than twenty percent
379 (20%) of the beds in health care facilities defined in Section
380 41-7-173(* * *e) (iv) and (vi) in the defined health service area
381 of the State of Mississippi.

382 Health care facilities owned, operated or under control of
383 the United States government, the state government or political
384 subdivision of either are excluded from the limitation of this
385 section.

386 **SECTION 6.** Section 41-7-191, Mississippi Code of 1972, is
387 amended as follows:

388 41-7-191. (1) No person shall engage in any of the
389 following activities without obtaining the required certificate of
390 need:



391 (a) The construction, development or other
392 establishment of a new health care facility, which establishment
393 shall include the reopening of a health care facility that has
394 ceased to operate for a period of sixty (60) months or more;

395 (b) The relocation of a health care facility or portion
396 thereof, * * * unless such relocation of * * * the health care
397 facility or portion thereof * * * is within five thousand two
398 hundred eighty (5,280) feet from the main entrance of the health
399 care facility;

400 (c) Any change in the existing bed complement of any
401 health care facility through the addition or conversion of any
402 beds * * *; however, if a health care facility has voluntarily
403 delicensed some of its existing bed complement, it may later
404 relicense some or all of its delicensed beds without the necessity
405 of having to acquire a certificate of need. The State Department
406 of Health shall maintain a record of the delicensing health care
407 facility and its voluntarily delicensed beds and continue counting
408 those beds as part of the state's total bed count for health care
409 planning purposes. If a health care facility that has voluntarily
410 delicensed some of its beds later desires to relicense some or all
411 of its voluntarily delicensed beds, it shall notify the State
412 Department of Health of its intent to increase the number of its
413 licensed beds. The State Department of Health shall survey the
414 health care facility within thirty (30) days of that notice and,
415 if appropriate, issue the health care facility a new license



416 reflecting the new contingent of beds. However, in no event may a
417 health care facility that has voluntarily delicensed some of its
418 beds be reissued a license to operate beds in excess of its bed
419 count before the voluntary delicensure of some of its beds without
420 seeking certificate of need approval;

421 * * *

422 (* * *d) The contracting of a health care facility as
423 defined in subparagraphs (i) through (viii) of Section
424 41-7-173(* * *e) to establish a home office, subunit, or branch
425 office in the space operated as a health care facility through a
426 formal arrangement with an existing health care facility as
427 defined in subparagraph (ix) of Section 41-7-173(* * *e);

428 (* * *e) The replacement or relocation of a health
429 care facility designated as a critical access hospital shall be
430 exempt from subsection (1) of this section so long as the critical
431 access hospital complies with all applicable federal law and
432 regulations regarding such replacement or relocation;

433 (* * *f) Reopening a health care facility that has
434 ceased to operate for a period of sixty (60) months or more, which
435 reopening requires a certificate of need for the establishment of
436 a new health care facility.

437 (2) The State Department of Health shall not grant approval
438 for or issue a certificate of need to any person proposing the new
439 construction of, addition to, or expansion of any health care
440 facility defined in subparagraphs (iv) (skilled nursing facility)



441 and (vi) (intermediate care facility) of Section 41-7-173(* * *e)
442 or the conversion of vacant hospital beds to provide skilled or
443 intermediate nursing home care, except as hereinafter authorized:

444 (a) The department may issue a certificate of need to
445 any person proposing the new construction of any health care
446 facility defined in subparagraphs (iv) and (vi) of Section
447 41-7-173(h) as part of a life care retirement facility, in any
448 county bordering on the Gulf of Mexico in which is located a
449 National Aeronautics and Space Administration facility, not to
450 exceed forty (40) beds. From and after July 1, 1999, there shall
451 be no prohibition or restrictions on participation in the Medicaid
452 program (Section 43-13-101 et seq.) for the beds in the health
453 care facility that were authorized under this paragraph (a).

454 (b) The department may issue certificates of need in
455 Harrison County to provide skilled nursing home care for
456 Alzheimer's disease patients and other patients, not to exceed one
457 hundred fifty (150) beds. From and after July 1, 1999, there
458 shall be no prohibition or restrictions on participation in the
459 Medicaid program (Section 43-13-101 et seq.) for the beds in the
460 nursing facilities that were authorized under this paragraph (b).

461 (c) The department may issue a certificate of need for
462 the addition to or expansion of any skilled nursing facility that
463 is part of an existing continuing care retirement community
464 located in Madison County, provided that the recipient of the
465 certificate of need agrees in writing that the skilled nursing



466 facility will not at any time participate in the Medicaid program
467 (Section 43-13-101 et seq.) or admit or keep any patients in the
468 skilled nursing facility who are participating in the Medicaid
469 program. This written agreement by the recipient of the
470 certificate of need shall be fully binding on any subsequent owner
471 of the skilled nursing facility, if the ownership of the facility
472 is transferred at any time after the issuance of the certificate
473 of need. Agreement that the skilled nursing facility will not
474 participate in the Medicaid program shall be a condition of the
475 issuance of a certificate of need to any person under this
476 paragraph (c), and if such skilled nursing facility at any time
477 after the issuance of the certificate of need, regardless of the
478 ownership of the facility, participates in the Medicaid program or
479 admits or keeps any patients in the facility who are participating
480 in the Medicaid program, the State Department of Health shall
481 revoke the certificate of need, if it is still outstanding, and
482 shall deny or revoke the license of the skilled nursing facility,
483 at the time that the department determines, after a hearing
484 complying with due process, that the facility has failed to comply
485 with any of the conditions upon which the certificate of need was
486 issued, as provided in this paragraph and in the written agreement
487 by the recipient of the certificate of need. The total number of
488 beds that may be authorized under the authority of this paragraph
489 (c) shall not exceed sixty (60) beds.



490 (d) The State Department of Health may issue a
491 certificate of need to any hospital located in DeSoto County for
492 the new construction of a skilled nursing facility, not to exceed
493 one hundred twenty (120) beds, in DeSoto County. From and after
494 July 1, 1999, there shall be no prohibition or restrictions on
495 participation in the Medicaid program (Section 43-13-101 et seq.)
496 for the beds in the nursing facility that were authorized under
497 this paragraph (d).

498 (e) The State Department of Health may issue a
499 certificate of need for the construction of a nursing facility or
500 the conversion of beds to nursing facility beds at a personal care
501 facility for the elderly in Lowndes County that is owned and
502 operated by a Mississippi nonprofit corporation, not to exceed
503 sixty (60) beds. From and after July 1, 1999, there shall be no
504 prohibition or restrictions on participation in the Medicaid
505 program (Section 43-13-101 et seq.) for the beds in the nursing
506 facility that were authorized under this paragraph (e).

507 (f) The State Department of Health may issue a
508 certificate of need for conversion of a county hospital facility
509 in Itawamba County to a nursing facility, not to exceed sixty (60)
510 beds, including any necessary construction, renovation or
511 expansion. From and after July 1, 1999, there shall be no
512 prohibition or restrictions on participation in the Medicaid
513 program (Section 43-13-101 et seq.) for the beds in the nursing
514 facility that were authorized under this paragraph (f).



515 (g) The State Department of Health may issue a
516 certificate of need for the construction or expansion of nursing
517 facility beds or the conversion of other beds to nursing facility
518 beds in either Hinds, Madison or Rankin County, not to exceed
519 sixty (60) beds. From and after July 1, 1999, there shall be no
520 prohibition or restrictions on participation in the Medicaid
521 program (Section 43-13-101 et seq.) for the beds in the nursing
522 facility that were authorized under this paragraph (g).

523 (h) The State Department of Health may issue a
524 certificate of need for the construction or expansion of nursing
525 facility beds or the conversion of other beds to nursing facility
526 beds in either Hancock, Harrison or Jackson County, not to exceed
527 sixty (60) beds. From and after July 1, 1999, there shall be no
528 prohibition or restrictions on participation in the Medicaid
529 program (Section 43-13-101 et seq.) for the beds in the facility
530 that were authorized under this paragraph (h).

531 (i) The department may issue a certificate of need for
532 the new construction of a skilled nursing facility in Leake
533 County, provided that the recipient of the certificate of need
534 agrees in writing that the skilled nursing facility will not at
535 any time participate in the Medicaid program (Section 43-13-101 et
536 seq.) or admit or keep any patients in the skilled nursing
537 facility who are participating in the Medicaid program. This
538 written agreement by the recipient of the certificate of need
539 shall be fully binding on any subsequent owner of the skilled



540 nursing facility, if the ownership of the facility is transferred
541 at any time after the issuance of the certificate of need.
542 Agreement that the skilled nursing facility will not participate
543 in the Medicaid program shall be a condition of the issuance of a
544 certificate of need to any person under this paragraph (i), and if
545 such skilled nursing facility at any time after the issuance of
546 the certificate of need, regardless of the ownership of the
547 facility, participates in the Medicaid program or admits or keeps
548 any patients in the facility who are participating in the Medicaid
549 program, the State Department of Health shall revoke the
550 certificate of need, if it is still outstanding, and shall deny or
551 revoke the license of the skilled nursing facility, at the time
552 that the department determines, after a hearing complying with due
553 process, that the facility has failed to comply with any of the
554 conditions upon which the certificate of need was issued, as
555 provided in this paragraph and in the written agreement by the
556 recipient of the certificate of need. The provision of Section
557 41-7-193(1) regarding substantial compliance of the projection of
558 need as reported in the current State Health Plan is waived for
559 the purposes of this paragraph. The total number of nursing
560 facility beds that may be authorized by any certificate of need
561 issued under this paragraph (i) shall not exceed sixty (60) beds.
562 If the skilled nursing facility authorized by the certificate of
563 need issued under this paragraph is not constructed and fully
564 operational within eighteen (18) months after July 1, 1994, the



565 State Department of Health, after a hearing complying with due
566 process, shall revoke the certificate of need, if it is still
567 outstanding, and shall not issue a license for the skilled nursing
568 facility at any time after the expiration of the eighteen-month
569 period.

570 (j) The department may issue certificates of need to
571 allow any existing freestanding long-term care facility in
572 Tishomingo County and Hancock County that on July 1, 1995, is
573 licensed with fewer than sixty (60) beds. For the purposes of
574 this paragraph (j), the provisions of Section 41-7-193(1)
575 requiring substantial compliance with the projection of need as
576 reported in the current State Health Plan are waived. From and
577 after July 1, 1999, there shall be no prohibition or restrictions
578 on participation in the Medicaid program (Section 43-13-101 et
579 seq.) for the beds in the long-term care facilities that were
580 authorized under this paragraph (j).

581 (k) The department may issue a certificate of need for
582 the construction of a nursing facility at a continuing care
583 retirement community in Lowndes County. The total number of beds
584 that may be authorized under the authority of this paragraph (k)
585 shall not exceed sixty (60) beds. From and after July 1, 2001,
586 the prohibition on the facility participating in the Medicaid
587 program (Section 43-13-101 et seq.) that was a condition of
588 issuance of the certificate of need under this paragraph (k) shall
589 be revised as follows: The nursing facility may participate in



590 the Medicaid program from and after July 1, 2001, if the owner of
591 the facility on July 1, 2001, agrees in writing that no more than
592 thirty (30) of the beds at the facility will be certified for
593 participation in the Medicaid program, and that no claim will be
594 submitted for Medicaid reimbursement for more than thirty (30)
595 patients in the facility in any month or for any patient in the
596 facility who is in a bed that is not Medicaid-certified. This
597 written agreement by the owner of the facility shall be a
598 condition of licensure of the facility, and the agreement shall be
599 fully binding on any subsequent owner of the facility if the
600 ownership of the facility is transferred at any time after July 1,
601 2001. After this written agreement is executed, the Division of
602 Medicaid and the State Department of Health shall not certify more
603 than thirty (30) of the beds in the facility for participation in
604 the Medicaid program. If the facility violates the terms of the
605 written agreement by admitting or keeping in the facility on a
606 regular or continuing basis more than thirty (30) patients who are
607 participating in the Medicaid program, the State Department of
608 Health shall revoke the license of the facility, at the time that
609 the department determines, after a hearing complying with due
610 process, that the facility has violated the written agreement.

611 (1) Provided that funds are specifically appropriated
612 therefor by the Legislature, the department may issue a
613 certificate of need to a rehabilitation hospital in Hinds County
614 for the construction of a sixty-bed long-term care nursing



615 facility dedicated to the care and treatment of persons with
616 severe disabilities including persons with spinal cord and
617 closed-head injuries and ventilator dependent patients. The
618 provisions of Section 41-7-193(1) regarding substantial compliance
619 with projection of need as reported in the current State Health
620 Plan are waived for the purpose of this paragraph.

621 (m) The State Department of Health may issue a
622 certificate of need to a county-owned hospital in the Second
623 Judicial District of Panola County for the conversion of not more
624 than seventy-two (72) hospital beds to nursing facility beds,
625 provided that the recipient of the certificate of need agrees in
626 writing that none of the beds at the nursing facility will be
627 certified for participation in the Medicaid program (Section
628 43-13-101 et seq.), and that no claim will be submitted for
629 Medicaid reimbursement in the nursing facility in any day or for
630 any patient in the nursing facility. This written agreement by
631 the recipient of the certificate of need shall be a condition of
632 the issuance of the certificate of need under this paragraph, and
633 the agreement shall be fully binding on any subsequent owner of
634 the nursing facility if the ownership of the nursing facility is
635 transferred at any time after the issuance of the certificate of
636 need. After this written agreement is executed, the Division of
637 Medicaid and the State Department of Health shall not certify any
638 of the beds in the nursing facility for participation in the
639 Medicaid program. If the nursing facility violates the terms of



640 the written agreement by admitting or keeping in the nursing
641 facility on a regular or continuing basis any patients who are
642 participating in the Medicaid program, the State Department of
643 Health shall revoke the license of the nursing facility, at the
644 time that the department determines, after a hearing complying
645 with due process, that the nursing facility has violated the
646 condition upon which the certificate of need was issued, as
647 provided in this paragraph and in the written agreement. If the
648 certificate of need authorized under this paragraph is not issued
649 within twelve (12) months after July 1, 2001, the department shall
650 deny the application for the certificate of need and shall not
651 issue the certificate of need at any time after the twelve-month
652 period, unless the issuance is contested. If the certificate of
653 need is issued and substantial construction of the nursing
654 facility beds has not commenced within eighteen (18) months after
655 July 1, 2001, the State Department of Health, after a hearing
656 complying with due process, shall revoke the certificate of need
657 if it is still outstanding, and the department shall not issue a
658 license for the nursing facility at any time after the
659 eighteen-month period. However, if the issuance of the
660 certificate of need is contested, the department shall require
661 substantial construction of the nursing facility beds within six
662 (6) months after final adjudication on the issuance of the
663 certificate of need.



664 (n) The department may issue a certificate of need for
665 the new construction, addition or conversion of skilled nursing
666 facility beds in Madison County, provided that the recipient of
667 the certificate of need agrees in writing that the skilled nursing
668 facility will not at any time participate in the Medicaid program
669 (Section 43-13-101 et seq.) or admit or keep any patients in the
670 skilled nursing facility who are participating in the Medicaid
671 program. This written agreement by the recipient of the
672 certificate of need shall be fully binding on any subsequent owner
673 of the skilled nursing facility, if the ownership of the facility
674 is transferred at any time after the issuance of the certificate
675 of need. Agreement that the skilled nursing facility will not
676 participate in the Medicaid program shall be a condition of the
677 issuance of a certificate of need to any person under this
678 paragraph (n), and if such skilled nursing facility at any time
679 after the issuance of the certificate of need, regardless of the
680 ownership of the facility, participates in the Medicaid program or
681 admits or keeps any patients in the facility who are participating
682 in the Medicaid program, the State Department of Health shall
683 revoke the certificate of need, if it is still outstanding, and
684 shall deny or revoke the license of the skilled nursing facility,
685 at the time that the department determines, after a hearing
686 complying with due process, that the facility has failed to comply
687 with any of the conditions upon which the certificate of need was
688 issued, as provided in this paragraph and in the written agreement



689 by the recipient of the certificate of need. The total number of
690 nursing facility beds that may be authorized by any certificate of
691 need issued under this paragraph (n) shall not exceed sixty (60)
692 beds. If the certificate of need authorized under this paragraph
693 is not issued within twelve (12) months after July 1, 1998, the
694 department shall deny the application for the certificate of need
695 and shall not issue the certificate of need at any time after the
696 twelve-month period, unless the issuance is contested. If the
697 certificate of need is issued and substantial construction of the
698 nursing facility beds has not commenced within eighteen (18)
699 months after July 1, 1998, the State Department of Health, after a
700 hearing complying with due process, shall revoke the certificate
701 of need if it is still outstanding, and the department shall not
702 issue a license for the nursing facility at any time after the
703 eighteen-month period. However, if the issuance of the
704 certificate of need is contested, the department shall require
705 substantial construction of the nursing facility beds within six
706 (6) months after final adjudication on the issuance of the
707 certificate of need.

708 (o) The department may issue a certificate of need for
709 the new construction, addition or conversion of skilled nursing
710 facility beds in Leake County, provided that the recipient of the
711 certificate of need agrees in writing that the skilled nursing
712 facility will not at any time participate in the Medicaid program
713 (Section 43-13-101 et seq.) or admit or keep any patients in the



714 skilled nursing facility who are participating in the Medicaid
715 program. This written agreement by the recipient of the
716 certificate of need shall be fully binding on any subsequent owner
717 of the skilled nursing facility, if the ownership of the facility
718 is transferred at any time after the issuance of the certificate
719 of need. Agreement that the skilled nursing facility will not
720 participate in the Medicaid program shall be a condition of the
721 issuance of a certificate of need to any person under this
722 paragraph (o), and if such skilled nursing facility at any time
723 after the issuance of the certificate of need, regardless of the
724 ownership of the facility, participates in the Medicaid program or
725 admits or keeps any patients in the facility who are participating
726 in the Medicaid program, the State Department of Health shall
727 revoke the certificate of need, if it is still outstanding, and
728 shall deny or revoke the license of the skilled nursing facility,
729 at the time that the department determines, after a hearing
730 complying with due process, that the facility has failed to comply
731 with any of the conditions upon which the certificate of need was
732 issued, as provided in this paragraph and in the written agreement
733 by the recipient of the certificate of need. The total number of
734 nursing facility beds that may be authorized by any certificate of
735 need issued under this paragraph (o) shall not exceed sixty (60)
736 beds. If the certificate of need authorized under this paragraph
737 is not issued within twelve (12) months after July 1, 2001, the
738 department shall deny the application for the certificate of need



739 and shall not issue the certificate of need at any time after the
740 twelve-month period, unless the issuance is contested. If the
741 certificate of need is issued and substantial construction of the
742 nursing facility beds has not commenced within eighteen (18)
743 months after July 1, 2001, the State Department of Health, after a
744 hearing complying with due process, shall revoke the certificate
745 of need if it is still outstanding, and the department shall not
746 issue a license for the nursing facility at any time after the
747 eighteen-month period. However, if the issuance of the
748 certificate of need is contested, the department shall require
749 substantial construction of the nursing facility beds within six
750 (6) months after final adjudication on the issuance of the
751 certificate of need.

752 (p) The department may issue a certificate of need for
753 the construction of a municipally owned nursing facility within
754 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
755 beds, provided that the recipient of the certificate of need
756 agrees in writing that the skilled nursing facility will not at
757 any time participate in the Medicaid program (Section 43-13-101 et
758 seq.) or admit or keep any patients in the skilled nursing
759 facility who are participating in the Medicaid program. This
760 written agreement by the recipient of the certificate of need
761 shall be fully binding on any subsequent owner of the skilled
762 nursing facility, if the ownership of the facility is transferred
763 at any time after the issuance of the certificate of need.



764 Agreement that the skilled nursing facility will not participate
765 in the Medicaid program shall be a condition of the issuance of a
766 certificate of need to any person under this paragraph (p), and if
767 such skilled nursing facility at any time after the issuance of
768 the certificate of need, regardless of the ownership of the
769 facility, participates in the Medicaid program or admits or keeps
770 any patients in the facility who are participating in the Medicaid
771 program, the State Department of Health shall revoke the
772 certificate of need, if it is still outstanding, and shall deny or
773 revoke the license of the skilled nursing facility, at the time
774 that the department determines, after a hearing complying with due
775 process, that the facility has failed to comply with any of the
776 conditions upon which the certificate of need was issued, as
777 provided in this paragraph and in the written agreement by the
778 recipient of the certificate of need. The provision of Section
779 41-7-193(1) regarding substantial compliance of the projection of
780 need as reported in the current State Health Plan is waived for
781 the purposes of this paragraph. If the certificate of need
782 authorized under this paragraph is not issued within twelve (12)
783 months after July 1, 1998, the department shall deny the
784 application for the certificate of need and shall not issue the
785 certificate of need at any time after the twelve-month period,
786 unless the issuance is contested. If the certificate of need is
787 issued and substantial construction of the nursing facility beds
788 has not commenced within eighteen (18) months after July 1, 1998,



789 the State Department of Health, after a hearing complying with due
790 process, shall revoke the certificate of need if it is still
791 outstanding, and the department shall not issue a license for the
792 nursing facility at any time after the eighteen-month period.
793 However, if the issuance of the certificate of need is contested,
794 the department shall require substantial construction of the
795 nursing facility beds within six (6) months after final
796 adjudication on the issuance of the certificate of need.

797 (q) (i) Beginning on July 1, 1999, the State
798 Department of Health shall issue certificates of need during each
799 of the next four (4) fiscal years for the construction or
800 expansion of nursing facility beds or the conversion of other beds
801 to nursing facility beds in each county in the state having a need
802 for fifty (50) or more additional nursing facility beds, as shown
803 in the fiscal year 1999 State Health Plan, in the manner provided
804 in this paragraph (q). The total number of nursing facility beds
805 that may be authorized by any certificate of need authorized under
806 this paragraph (q) shall not exceed sixty (60) beds.

807 (ii) Subject to the provisions of subparagraph
808 (v), during each of the next four (4) fiscal years, the department
809 shall issue six (6) certificates of need for new nursing facility
810 beds, as follows: During fiscal years 2000, 2001 and 2002, one
811 (1) certificate of need shall be issued for new nursing facility
812 beds in the county in each of the four (4) Long-Term Care Planning
813 Districts designated in the fiscal year 1999 State Health Plan



814 that has the highest need in the district for those beds; and two
815 (2) certificates of need shall be issued for new nursing facility
816 beds in the two (2) counties from the state at large that have the
817 highest need in the state for those beds, when considering the
818 need on a statewide basis and without regard to the Long-Term Care
819 Planning Districts in which the counties are located. During
820 fiscal year 2003, one (1) certificate of need shall be issued for
821 new nursing facility beds in any county having a need for fifty
822 (50) or more additional nursing facility beds, as shown in the
823 fiscal year 1999 State Health Plan, that has not received a
824 certificate of need under this paragraph (q) during the three (3)
825 previous fiscal years. During fiscal year 2000, in addition to
826 the six (6) certificates of need authorized in this subparagraph,
827 the department also shall issue a certificate of need for new
828 nursing facility beds in Amite County and a certificate of need
829 for new nursing facility beds in Carroll County.

830 (iii) Subject to the provisions of subparagraph
831 (v), the certificate of need issued under subparagraph (ii) for
832 nursing facility beds in each Long-Term Care Planning District
833 during each fiscal year shall first be available for nursing
834 facility beds in the county in the district having the highest
835 need for those beds, as shown in the fiscal year 1999 State Health
836 Plan. If there are no applications for a certificate of need for
837 nursing facility beds in the county having the highest need for
838 those beds by the date specified by the department, then the



839 certificate of need shall be available for nursing facility beds
840 in other counties in the district in descending order of the need
841 for those beds, from the county with the second highest need to
842 the county with the lowest need, until an application is received
843 for nursing facility beds in an eligible county in the district.

844 (iv) Subject to the provisions of subparagraph
845 (v), the certificate of need issued under subparagraph (ii) for
846 nursing facility beds in the two (2) counties from the state at
847 large during each fiscal year shall first be available for nursing
848 facility beds in the two (2) counties that have the highest need
849 in the state for those beds, as shown in the fiscal year 1999
850 State Health Plan, when considering the need on a statewide basis
851 and without regard to the Long-Term Care Planning Districts in
852 which the counties are located. If there are no applications for
853 a certificate of need for nursing facility beds in either of the
854 two (2) counties having the highest need for those beds on a
855 statewide basis by the date specified by the department, then the
856 certificate of need shall be available for nursing facility beds
857 in other counties from the state at large in descending order of
858 the need for those beds on a statewide basis, from the county with
859 the second highest need to the county with the lowest need, until
860 an application is received for nursing facility beds in an
861 eligible county from the state at large.

862 (v) If a certificate of need is authorized to be
863 issued under this paragraph (q) for nursing facility beds in a



864 county on the basis of the need in the Long-Term Care Planning
865 District during any fiscal year of the four-year period, a
866 certificate of need shall not also be available under this
867 paragraph (q) for additional nursing facility beds in that county
868 on the basis of the need in the state at large, and that county
869 shall be excluded in determining which counties have the highest
870 need for nursing facility beds in the state at large for that
871 fiscal year. After a certificate of need has been issued under
872 this paragraph (q) for nursing facility beds in a county during
873 any fiscal year of the four-year period, a certificate of need
874 shall not be available again under this paragraph (q) for
875 additional nursing facility beds in that county during the
876 four-year period, and that county shall be excluded in determining
877 which counties have the highest need for nursing facility beds in
878 succeeding fiscal years.

879 (vi) If more than one (1) application is made for
880 a certificate of need for nursing home facility beds available
881 under this paragraph (q), in Yalobusha, Newton or Tallahatchie
882 County, and one (1) of the applicants is a county-owned hospital
883 located in the county where the nursing facility beds are
884 available, the department shall give priority to the county-owned
885 hospital in granting the certificate of need if the following
886 conditions are met:



887 1. The county-owned hospital fully meets all
888 applicable criteria and standards required to obtain a certificate
889 of need for the nursing facility beds; and

890 2. The county-owned hospital's qualifications
891 for the certificate of need, as shown in its application and as
892 determined by the department, are at least equal to the
893 qualifications of the other applicants for the certificate of
894 need.

895 (r) (i) Beginning on July 1, 1999, the State
896 Department of Health shall issue certificates of need during each
897 of the next two (2) fiscal years for the construction or expansion
898 of nursing facility beds or the conversion of other beds to
899 nursing facility beds in each of the four (4) Long-Term Care
900 Planning Districts designated in the fiscal year 1999 State Health
901 Plan, to provide care exclusively to patients with Alzheimer's
902 disease.

903 (ii) Not more than twenty (20) beds may be
904 authorized by any certificate of need issued under this paragraph
905 (r), and not more than a total of sixty (60) beds may be
906 authorized in any Long-Term Care Planning District by all
907 certificates of need issued under this paragraph (r). However,
908 the total number of beds that may be authorized by all
909 certificates of need issued under this paragraph (r) during any
910 fiscal year shall not exceed one hundred twenty (120) beds, and
911 the total number of beds that may be authorized in any Long-Term



912 Care Planning District during any fiscal year shall not exceed
913 forty (40) beds. Of the certificates of need that are issued for
914 each Long-Term Care Planning District during the next two (2)
915 fiscal years, at least one (1) shall be issued for beds in the
916 northern part of the district, at least one (1) shall be issued
917 for beds in the central part of the district, and at least one (1)
918 shall be issued for beds in the southern part of the district.

919 (iii) The State Department of Health, in
920 consultation with the Department of Mental Health and the Division
921 of Medicaid, shall develop and prescribe the staffing levels,
922 space requirements and other standards and requirements that must
923 be met with regard to the nursing facility beds authorized under
924 this paragraph (r) to provide care exclusively to patients with
925 Alzheimer's disease.

926 (s) The State Department of Health may issue a
927 certificate of need to a nonprofit skilled nursing facility using
928 the Green House model of skilled nursing care and located in Yazoo
929 City, Yazoo County, Mississippi, for the construction, expansion
930 or conversion of not more than nineteen (19) nursing facility
931 beds. For purposes of this paragraph (s), the provisions of
932 Section 41-7-193(1) requiring substantial compliance with the
933 projection of need as reported in the current State Health Plan
934 and the provisions of Section 41-7-197 requiring a formal
935 certificate of need hearing process are waived. There shall be no
936 prohibition or restrictions on participation in the Medicaid



937 program for the person receiving the certificate of need
938 authorized under this paragraph (s).

939 (t) The State Department of Health shall issue
940 certificates of need to the owner of a nursing facility in
941 operation at the time of Hurricane Katrina in Hancock County that
942 was not operational on December 31, 2005, because of damage
943 sustained from Hurricane Katrina to authorize the following: (i)
944 the construction of a new nursing facility in Harrison County;
945 (ii) the relocation of forty-nine (49) nursing facility beds from
946 the Hancock County facility to the new Harrison County facility;
947 (iii) the establishment of not more than twenty (20) non-Medicaid
948 nursing facility beds at the Hancock County facility; and (iv) the
949 establishment of not more than twenty (20) non-Medicaid beds at
950 the new Harrison County facility. The certificates of need that
951 authorize the non-Medicaid nursing facility beds under
952 subparagraphs (iii) and (iv) of this paragraph (t) shall be
953 subject to the following conditions: The owner of the Hancock
954 County facility and the new Harrison County facility must agree in
955 writing that no more than fifty (50) of the beds at the Hancock
956 County facility and no more than forty-nine (49) of the beds at
957 the Harrison County facility will be certified for participation
958 in the Medicaid program, and that no claim will be submitted for
959 Medicaid reimbursement for more than fifty (50) patients in the
960 Hancock County facility in any month, or for more than forty-nine
961 (49) patients in the Harrison County facility in any month, or for



962 any patient in either facility who is in a bed that is not
963 Medicaid-certified. This written agreement by the owner of the
964 nursing facilities shall be a condition of the issuance of the
965 certificates of need under this paragraph (t), and the agreement
966 shall be fully binding on any later owner or owners of either
967 facility if the ownership of either facility is transferred at any
968 time after the certificates of need are issued. After this
969 written agreement is executed, the Division of Medicaid and the
970 State Department of Health shall not certify more than fifty (50)
971 of the beds at the Hancock County facility or more than forty-nine
972 (49) of the beds at the Harrison County facility for participation
973 in the Medicaid program. If the Hancock County facility violates
974 the terms of the written agreement by admitting or keeping in the
975 facility on a regular or continuing basis more than fifty (50)
976 patients who are participating in the Medicaid program, or if the
977 Harrison County facility violates the terms of the written
978 agreement by admitting or keeping in the facility on a regular or
979 continuing basis more than forty-nine (49) patients who are
980 participating in the Medicaid program, the State Department of
981 Health shall revoke the license of the facility that is in
982 violation of the agreement, at the time that the department
983 determines, after a hearing complying with due process, that the
984 facility has violated the agreement.

985 (u) The State Department of Health shall issue a
986 certificate of need to a nonprofit venture for the establishment,



987 construction and operation of a skilled nursing facility of not
988 more than sixty (60) beds to provide skilled nursing care for
989 ventilator dependent or otherwise medically dependent pediatric
990 patients who require medical and nursing care or rehabilitation
991 services to be located in a county in which an academic medical
992 center and a children's hospital are located, and for any
993 construction and for the acquisition of equipment related to those
994 beds. The facility shall be authorized to keep such ventilator
995 dependent or otherwise medically dependent pediatric patients
996 beyond age twenty-one (21) in accordance with regulations of the
997 State Board of Health. For purposes of this paragraph (u), the
998 provisions of Section 41-7-193(1) requiring substantial compliance
999 with the projection of need as reported in the current State
1000 Health Plan are waived, and the provisions of Section 41-7-197
1001 requiring a formal certificate of need hearing process are waived.
1002 The beds authorized by this paragraph shall be counted as
1003 pediatric skilled nursing facility beds for health planning
1004 purposes under Section 41-7-171 et seq. There shall be no
1005 prohibition of or restrictions on participation in the Medicaid
1006 program for the person receiving the certificate of need
1007 authorized by this paragraph.

1008 (3) The State Department of Health may grant approval for
1009 and issue certificates of need to any person proposing the new
1010 construction of, addition to, conversion of beds of or expansion
1011 of any health care facility defined in subparagraph (x)



1012 (psychiatric residential treatment facility) of Section
1013 41-7-173(* * *e). The total number of beds which may be
1014 authorized by such certificates of need shall not exceed three
1015 hundred thirty-four (334) beds for the entire state.

1016 (a) Of the total number of beds authorized under this
1017 subsection, the department shall issue a certificate of need to a
1018 privately owned psychiatric residential treatment facility in
1019 Simpson County for the conversion of sixteen (16) intermediate
1020 care facility for the mentally retarded (ICF-MR) beds to
1021 psychiatric residential treatment facility beds, provided that
1022 facility agrees in writing that the facility shall give priority
1023 for the use of those sixteen (16) beds to Mississippi residents
1024 who are presently being treated in out-of-state facilities.

1025 (b) Of the total number of beds authorized under this
1026 subsection, the department may issue a certificate or certificates
1027 of need for the construction or expansion of psychiatric
1028 residential treatment facility beds or the conversion of other
1029 beds to psychiatric residential treatment facility beds in Warren
1030 County, not to exceed sixty (60) psychiatric residential treatment
1031 facility beds, provided that the facility agrees in writing that
1032 no more than thirty (30) of the beds at the psychiatric
1033 residential treatment facility will be certified for participation
1034 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1035 any patients other than those who are participating only in the
1036 Medicaid program of another state, and that no claim will be



1037 submitted to the Division of Medicaid for Medicaid reimbursement
1038 for more than thirty (30) patients in the psychiatric residential
1039 treatment facility in any day or for any patient in the
1040 psychiatric residential treatment facility who is in a bed that is
1041 not Medicaid-certified. This written agreement by the recipient
1042 of the certificate of need shall be a condition of the issuance of
1043 the certificate of need under this paragraph, and the agreement
1044 shall be fully binding on any subsequent owner of the psychiatric
1045 residential treatment facility if the ownership of the facility is
1046 transferred at any time after the issuance of the certificate of
1047 need. After this written agreement is executed, the Division of
1048 Medicaid and the State Department of Health shall not certify more
1049 than thirty (30) of the beds in the psychiatric residential
1050 treatment facility for participation in the Medicaid program for
1051 the use of any patients other than those who are participating
1052 only in the Medicaid program of another state. If the psychiatric
1053 residential treatment facility violates the terms of the written
1054 agreement by admitting or keeping in the facility on a regular or
1055 continuing basis more than thirty (30) patients who are
1056 participating in the Mississippi Medicaid program, the State
1057 Department of Health shall revoke the license of the facility, at
1058 the time that the department determines, after a hearing complying
1059 with due process, that the facility has violated the condition
1060 upon which the certificate of need was issued, as provided in this
1061 paragraph and in the written agreement.



1062 The State Department of Health, on or before July 1, 2002,
1063 shall transfer the certificate of need authorized under the
1064 authority of this paragraph (b), or reissue the certificate of
1065 need if it has expired, to River Region Health System.

1066 (c) Of the total number of beds authorized under this
1067 subsection, the department shall issue a certificate of need to a
1068 hospital currently operating Medicaid-certified acute psychiatric
1069 beds for adolescents in DeSoto County, for the establishment of a
1070 forty-bed psychiatric residential treatment facility in DeSoto
1071 County, provided that the hospital agrees in writing (i) that the
1072 hospital shall give priority for the use of those forty (40) beds
1073 to Mississippi residents who are presently being treated in
1074 out-of-state facilities, and (ii) that no more than fifteen (15)
1075 of the beds at the psychiatric residential treatment facility will
1076 be certified for participation in the Medicaid program (Section
1077 43-13-101 et seq.), and that no claim will be submitted for
1078 Medicaid reimbursement for more than fifteen (15) patients in the
1079 psychiatric residential treatment facility in any day or for any
1080 patient in the psychiatric residential treatment facility who is
1081 in a bed that is not Medicaid-certified. This written agreement
1082 by the recipient of the certificate of need shall be a condition
1083 of the issuance of the certificate of need under this paragraph,
1084 and the agreement shall be fully binding on any subsequent owner
1085 of the psychiatric residential treatment facility if the ownership
1086 of the facility is transferred at any time after the issuance of



1087 the certificate of need. After this written agreement is
1088 executed, the Division of Medicaid and the State Department of
1089 Health shall not certify more than fifteen (15) of the beds in the
1090 psychiatric residential treatment facility for participation in
1091 the Medicaid program. If the psychiatric residential treatment
1092 facility violates the terms of the written agreement by admitting
1093 or keeping in the facility on a regular or continuing basis more
1094 than fifteen (15) patients who are participating in the Medicaid
1095 program, the State Department of Health shall revoke the license
1096 of the facility, at the time that the department determines, after
1097 a hearing complying with due process, that the facility has
1098 violated the condition upon which the certificate of need was
1099 issued, as provided in this paragraph and in the written
1100 agreement.

1101 (d) Of the total number of beds authorized under this
1102 subsection, the department may issue a certificate or certificates
1103 of need for the construction or expansion of psychiatric
1104 residential treatment facility beds or the conversion of other
1105 beds to psychiatric treatment facility beds, not to exceed thirty
1106 (30) psychiatric residential treatment facility beds, in either
1107 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1108 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1109 (e) Of the total number of beds authorized under this
1110 subsection (3) the department shall issue a certificate of need to
1111 a privately owned, nonprofit psychiatric residential treatment



1112 facility in Hinds County for an eight-bed expansion of the
1113 facility, provided that the facility agrees in writing that the
1114 facility shall give priority for the use of those eight (8) beds
1115 to Mississippi residents who are presently being treated in
1116 out-of-state facilities.

1117 (f) The department shall issue a certificate of need to
1118 a one-hundred-thirty-four-bed specialty hospital located on
1119 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1120 at 5900 Highway 39 North in Meridian (Lauderdale County),
1121 Mississippi, for the addition, construction or expansion of
1122 child/adolescent psychiatric residential treatment facility beds
1123 in Lauderdale County. As a condition of issuance of the
1124 certificate of need under this paragraph, the facility shall give
1125 priority in admissions to the child/adolescent psychiatric
1126 residential treatment facility beds authorized under this
1127 paragraph to patients who otherwise would require out-of-state
1128 placement. The Division of Medicaid, in conjunction with the
1129 Department of Human Services, shall furnish the facility a list of
1130 all out-of-state patients on a quarterly basis. Furthermore,
1131 notice shall also be provided to the parent, custodial parent or
1132 guardian of each out-of-state patient notifying them of the
1133 priority status granted by this paragraph. For purposes of this
1134 paragraph, the provisions of Section 41-7-193(1) requiring
1135 substantial compliance with the projection of need as reported in
1136 the current State Health Plan are waived. The total number of



1137 child/adolescent psychiatric residential treatment facility beds
1138 that may be authorized under the authority of this paragraph shall
1139 be sixty (60) beds. There shall be no prohibition or restrictions
1140 on participation in the Medicaid program (Section 43-13-101 et
1141 seq.) for the person receiving the certificate of need authorized
1142 under this paragraph or for the beds converted pursuant to the
1143 authority of that certificate of need.

1144 (4) (a) From and after July 1, 1993, the department shall
1145 not issue a certificate of need to any person for the new
1146 construction of any hospital, psychiatric hospital or chemical
1147 dependency hospital that will contain any child/adolescent
1148 psychiatric or child/adolescent chemical dependency beds, or for
1149 the conversion of any other health care facility to a hospital,
1150 psychiatric hospital or chemical dependency hospital that will
1151 contain any child/adolescent psychiatric or child/adolescent
1152 chemical dependency beds, or for the addition of any
1153 child/adolescent psychiatric or child/adolescent chemical
1154 dependency beds in any hospital, psychiatric hospital or chemical
1155 dependency hospital, or for the conversion of any beds of another
1156 category in any hospital, psychiatric hospital or chemical
1157 dependency hospital to child/adolescent psychiatric or
1158 child/adolescent chemical dependency beds, except as hereinafter
1159 authorized:

1160 (i) The department may issue certificates of need
1161 to any person for any purpose described in this subsection,



1162 provided that the hospital, psychiatric hospital or chemical
1163 dependency hospital does not participate in the Medicaid program
1164 (Section 43-13-101 et seq.) at the time of the application for the
1165 certificate of need and the owner of the hospital, psychiatric
1166 hospital or chemical dependency hospital agrees in writing that
1167 the hospital, psychiatric hospital or chemical dependency hospital
1168 will not at any time participate in the Medicaid program or admit
1169 or keep any patients who are participating in the Medicaid program
1170 in the hospital, psychiatric hospital or chemical dependency
1171 hospital. This written agreement by the recipient of the
1172 certificate of need shall be fully binding on any subsequent owner
1173 of the hospital, psychiatric hospital or chemical dependency
1174 hospital, if the ownership of the facility is transferred at any
1175 time after the issuance of the certificate of need. Agreement
1176 that the hospital, psychiatric hospital or chemical dependency
1177 hospital will not participate in the Medicaid program shall be a
1178 condition of the issuance of a certificate of need to any person
1179 under this subparagraph (i), and if such hospital, psychiatric
1180 hospital or chemical dependency hospital at any time after the
1181 issuance of the certificate of need, regardless of the ownership
1182 of the facility, participates in the Medicaid program or admits or
1183 keeps any patients in the hospital, psychiatric hospital or
1184 chemical dependency hospital who are participating in the Medicaid
1185 program, the State Department of Health shall revoke the
1186 certificate of need, if it is still outstanding, and shall deny or



1187 revoke the license of the hospital, psychiatric hospital or
1188 chemical dependency hospital, at the time that the department
1189 determines, after a hearing complying with due process, that the
1190 hospital, psychiatric hospital or chemical dependency hospital has
1191 failed to comply with any of the conditions upon which the
1192 certificate of need was issued, as provided in this subparagraph
1193 (i) and in the written agreement by the recipient of the
1194 certificate of need.

1195 (ii) The department may issue a certificate of
1196 need for the conversion of existing beds in a county hospital in
1197 Choctaw County from acute care beds to child/adolescent chemical
1198 dependency beds. For purposes of this subparagraph (ii), the
1199 provisions of Section 41-7-193(1) requiring substantial compliance
1200 with the projection of need as reported in the current State
1201 Health Plan are waived. The total number of beds that may be
1202 authorized under authority of this subparagraph shall not exceed
1203 twenty (20) beds. There shall be no prohibition or restrictions
1204 on participation in the Medicaid program (Section 43-13-101 et
1205 seq.) for the hospital receiving the certificate of need
1206 authorized under this subparagraph or for the beds converted
1207 pursuant to the authority of that certificate of need.

1208 (iii) The department may issue a certificate or
1209 certificates of need for the construction or expansion of
1210 child/adolescent psychiatric beds or the conversion of other beds
1211 to child/adolescent psychiatric beds in Warren County. For



1212 purposes of this subparagraph (iii), the provisions of Section
1213 41-7-193(1) requiring substantial compliance with the projection
1214 of need as reported in the current State Health Plan are waived.
1215 The total number of beds that may be authorized under the
1216 authority of this subparagraph shall not exceed twenty (20) beds.
1217 There shall be no prohibition or restrictions on participation in
1218 the Medicaid program (Section 43-13-101 et seq.) for the person
1219 receiving the certificate of need authorized under this
1220 subparagraph or for the beds converted pursuant to the authority
1221 of that certificate of need.

1222 If by January 1, 2002, there has been no significant
1223 commencement of construction of the beds authorized under this
1224 subparagraph (iii), or no significant action taken to convert
1225 existing beds to the beds authorized under this subparagraph, then
1226 the certificate of need that was previously issued under this
1227 subparagraph shall expire. If the previously issued certificate
1228 of need expires, the department may accept applications for
1229 issuance of another certificate of need for the beds authorized
1230 under this subparagraph, and may issue a certificate of need to
1231 authorize the construction, expansion or conversion of the beds
1232 authorized under this subparagraph.

1233 (iv) The department shall issue a certificate of
1234 need to the Region 7 Mental Health/Retardation Commission for the
1235 construction or expansion of child/adolescent psychiatric beds or
1236 the conversion of other beds to child/adolescent psychiatric beds



1237 in any of the counties served by the commission. For purposes of
1238 this subparagraph (iv), the provisions of Section 41-7-193(1)
1239 requiring substantial compliance with the projection of need as
1240 reported in the current State Health Plan are waived. The total
1241 number of beds that may be authorized under the authority of this
1242 subparagraph shall not exceed twenty (20) beds. There shall be no
1243 prohibition or restrictions on participation in the Medicaid
1244 program (Section 43-13-101 et seq.) for the person receiving the
1245 certificate of need authorized under this subparagraph or for the
1246 beds converted pursuant to the authority of that certificate of
1247 need.

1248 (v) The department may issue a certificate of need
1249 to any county hospital located in Leflore County for the
1250 construction or expansion of adult psychiatric beds or the
1251 conversion of other beds to adult psychiatric beds, not to exceed
1252 twenty (20) beds, provided that the recipient of the certificate
1253 of need agrees in writing that the adult psychiatric beds will not
1254 at any time be certified for participation in the Medicaid program
1255 and that the hospital will not admit or keep any patients who are
1256 participating in the Medicaid program in any of such adult
1257 psychiatric beds. This written agreement by the recipient of the
1258 certificate of need shall be fully binding on any subsequent owner
1259 of the hospital if the ownership of the hospital is transferred at
1260 any time after the issuance of the certificate of need. Agreement
1261 that the adult psychiatric beds will not be certified for



1262 participation in the Medicaid program shall be a condition of the
1263 issuance of a certificate of need to any person under this
1264 subparagraph (v), and if such hospital at any time after the
1265 issuance of the certificate of need, regardless of the ownership
1266 of the hospital, has any of such adult psychiatric beds certified
1267 for participation in the Medicaid program or admits or keeps any
1268 Medicaid patients in such adult psychiatric beds, the State
1269 Department of Health shall revoke the certificate of need, if it
1270 is still outstanding, and shall deny or revoke the license of the
1271 hospital at the time that the department determines, after a
1272 hearing complying with due process, that the hospital has failed
1273 to comply with any of the conditions upon which the certificate of
1274 need was issued, as provided in this subparagraph and in the
1275 written agreement by the recipient of the certificate of need.

1276 (vi) The department may issue a certificate or
1277 certificates of need for the expansion of child psychiatric beds
1278 or the conversion of other beds to child psychiatric beds at the
1279 University of Mississippi Medical Center. For purposes of this
1280 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1281 substantial compliance with the projection of need as reported in
1282 the current State Health Plan are waived. The total number of
1283 beds that may be authorized under the authority of this
1284 subparagraph shall not exceed fifteen (15) beds. There shall be
1285 no prohibition or restrictions on participation in the Medicaid
1286 program (Section 43-13-101 et seq.) for the hospital receiving the



1287 certificate of need authorized under this subparagraph or for the
1288 beds converted pursuant to the authority of that certificate of
1289 need.

1290 (b) From and after July 1, 1990, no hospital,
1291 psychiatric hospital or chemical dependency hospital shall be
1292 authorized to add any child/adolescent psychiatric or
1293 child/adolescent chemical dependency beds or convert any beds of
1294 another category to child/adolescent psychiatric or
1295 child/adolescent chemical dependency beds without a certificate of
1296 need under the authority of subsection (1)(c) of this section.

1297 (5) The department may issue a certificate of need to a
1298 county hospital in Winston County for the conversion of fifteen
1299 (15) acute care beds to geriatric psychiatric care beds.

1300 (6) The State Department of Health shall issue a certificate
1301 of need to a Mississippi corporation qualified to manage a
1302 long-term care hospital as defined in Section
1303 41-7-173(* * *e) (xii) in Harrison County, not to exceed eighty
1304 (80) beds, including any necessary renovation or construction
1305 required for licensure and certification, provided that the
1306 recipient of the certificate of need agrees in writing that the
1307 long-term care hospital will not at any time participate in the
1308 Medicaid program (Section 43-13-101 et seq.) or admit or keep any
1309 patients in the long-term care hospital who are participating in
1310 the Medicaid program. This written agreement by the recipient of
1311 the certificate of need shall be fully binding on any subsequent



1312 owner of the long-term care hospital, if the ownership of the
1313 facility is transferred at any time after the issuance of the
1314 certificate of need. Agreement that the long-term care hospital
1315 will not participate in the Medicaid program shall be a condition
1316 of the issuance of a certificate of need to any person under this
1317 subsection (6), and if such long-term care hospital at any time
1318 after the issuance of the certificate of need, regardless of the
1319 ownership of the facility, participates in the Medicaid program or
1320 admits or keeps any patients in the facility who are participating
1321 in the Medicaid program, the State Department of Health shall
1322 revoke the certificate of need, if it is still outstanding, and
1323 shall deny or revoke the license of the long-term care hospital,
1324 at the time that the department determines, after a hearing
1325 complying with due process, that the facility has failed to comply
1326 with any of the conditions upon which the certificate of need was
1327 issued, as provided in this subsection and in the written
1328 agreement by the recipient of the certificate of need. For
1329 purposes of this subsection, the provisions of Section 41-7-193(1)
1330 requiring substantial compliance with the projection of need as
1331 reported in the current State Health Plan are waived.

1332 (7) The State Department of Health may issue a certificate
1333 of need to any hospital in the state to utilize a portion of its
1334 beds for the "swing-bed" concept. Any such hospital must be in
1335 conformance with the federal regulations regarding such swing-bed
1336 concept at the time it submits its application for a certificate



1337 of need to the State Department of Health, except that such
1338 hospital may have more licensed beds or a higher average daily
1339 census (ADC) than the maximum number specified in federal
1340 regulations for participation in the swing-bed program. Any
1341 hospital meeting all federal requirements for participation in the
1342 swing-bed program which receives such certificate of need shall
1343 render services provided under the swing-bed concept to any
1344 patient eligible for Medicare (Title XVIII of the Social Security
1345 Act) who is certified by a physician to be in need of such
1346 services, and no such hospital shall permit any patient who is
1347 eligible for both Medicaid and Medicare or eligible only for
1348 Medicaid to stay in the swing beds of the hospital for more than
1349 thirty (30) days per admission unless the hospital receives prior
1350 approval for such patient from the Division of Medicaid, Office of
1351 the Governor. Any hospital having more licensed beds or a higher
1352 average daily census (ADC) than the maximum number specified in
1353 federal regulations for participation in the swing-bed program
1354 which receives such certificate of need shall develop a procedure
1355 to insure that before a patient is allowed to stay in the swing
1356 beds of the hospital, there are no vacant nursing home beds
1357 available for that patient located within a fifty-mile radius of
1358 the hospital. When any such hospital has a patient staying in the
1359 swing beds of the hospital and the hospital receives notice from a
1360 nursing home located within such radius that there is a vacant bed
1361 available for that patient, the hospital shall transfer the



1362 patient to the nursing home within a reasonable time after receipt
1363 of the notice. Any hospital which is subject to the requirements
1364 of the two (2) preceding sentences of this subsection may be
1365 suspended from participation in the swing-bed program for a
1366 reasonable period of time by the State Department of Health if the
1367 department, after a hearing complying with due process, determines
1368 that the hospital has failed to comply with any of those
1369 requirements.

1370 (8) The Department of Health shall not grant approval for or
1371 issue a certificate of need to any person proposing the new
1372 construction of, addition to or expansion of a health care
1373 facility as defined in subparagraph (viii) of Section
1374 41-7-173(* * *e), except as hereinafter provided: The department
1375 may issue a certificate of need to a nonprofit corporation located
1376 in Madison County, Mississippi, for the construction, expansion or
1377 conversion of not more than twenty (20) beds in a community living
1378 program for developmentally disabled adults in a facility as
1379 defined in subparagraph (viii) of Section 41-7-173(* * *e). For
1380 purposes of this subsection (8), the provisions of Section
1381 41-7-193(1) requiring substantial compliance with the projection
1382 of need as reported in the current State Health Plan and the
1383 provisions of Section 41-7-197 requiring a formal certificate of
1384 need hearing process are waived. There shall be no prohibition or
1385 restrictions on participation in the Medicaid program for the



1386 person receiving the certificate of need authorized under this
1387 subsection (8).

1388 (9) The Department of Health shall not grant approval for or
1389 issue a certificate of need to any person proposing the
1390 establishment of, or expansion of the currently approved territory
1391 of, or the contracting to establish a home office, subunit or
1392 branch office within the space operated as a health care facility
1393 as defined in Section 41-7-173(* * *e) (i) through (viii) by a
1394 health care facility as defined in subparagraph (ix) of Section
1395 41-7-173(* * *e).

1396 (10) Health care facilities owned and/or operated by the
1397 state or its agencies are exempt from the restraints in this
1398 section against issuance of a certificate of need if such addition
1399 or expansion consists of repairing or renovation necessary to
1400 comply with the state licensure law. This exception shall not
1401 apply to the new construction of any building by such state
1402 facility. This exception shall not apply to any health care
1403 facilities owned and/or operated by counties, municipalities,
1404 districts, unincorporated areas, other defined persons, or any
1405 combination thereof.

1406 (11) The new construction, renovation or expansion of or
1407 addition to any health care facility defined in subparagraph (ii)
1408 (psychiatric hospital), subparagraph (iv) (skilled nursing
1409 facility), subparagraph (vi) (intermediate care facility),
1410 subparagraph (viii) (intermediate care facility for the mentally



1411 retarded) and subparagraph (x) (psychiatric residential treatment
1412 facility) of Section 41-7-173(* * *e) which is owned by the State
1413 of Mississippi and under the direction and control of the State
1414 Department of Mental Health, and the addition of new beds or the
1415 conversion of beds from one category to another in any such
1416 defined health care facility which is owned by the State of
1417 Mississippi and under the direction and control of the State
1418 Department of Mental Health, shall not require the issuance of a
1419 certificate of need under Section 41-7-171 et seq.,
1420 notwithstanding any provision in Section 41-7-171 et seq. to the
1421 contrary.

1422 (12) The new construction, renovation or expansion of or
1423 addition to any veterans homes or domiciliaries for eligible
1424 veterans of the State of Mississippi as authorized under Section
1425 35-1-19 shall not require the issuance of a certificate of need,
1426 notwithstanding any provision in Section 41-7-171 et seq. to the
1427 contrary.

1428 (13) The repair or the rebuilding of an existing, operating
1429 health care facility that sustained significant damage from a
1430 natural disaster that occurred after April 15, 2014, in an area
1431 that is proclaimed a disaster area or subject to a state of
1432 emergency by the Governor or by the President of the United States
1433 shall be exempt from all of the requirements of the Mississippi
1434 Certificate of Need Law (Section 41-7-171 et seq.) and any and all



1435 rules and regulations promulgated under that law, subject to the
1436 following conditions:

1437 (a) The repair or the rebuilding of any such damaged
1438 health care facility must be within one (1) mile of the
1439 pre-disaster location of the campus of the damaged health care
1440 facility, except that any temporary post-disaster health care
1441 facility operating location may be within five (5) miles of the
1442 pre-disaster location of the damaged health care facility;

1443 (b) The repair or the rebuilding of the damaged health
1444 care facility (i) does not increase or change the complement of
1445 its bed capacity that it had before the Governor's or the
1446 President's proclamation, * * * the Governor's or the President's
1447 proclamation, and (* * * ii) does not rebuild in a different
1448 county; however, this paragraph does not restrict or prevent a
1449 health care facility from decreasing its bed capacity that it had
1450 before the Governor's or the President's proclamation, or from
1451 decreasing the levels of or decreasing or eliminating the types of
1452 health care services that it provided before the Governor's or the
1453 President's proclamation, when the damaged health care facility is
1454 repaired or rebuilt;

1455 (c) The exemption from Certificate of Need Law provided
1456 under this subsection (13) is valid for only five (5) years from
1457 the date of the Governor's or the President's proclamation. If
1458 actual construction has not begun within that five-year period,
1459 the exemption provided under this subsection is inapplicable; and



1460 (d) The Division of Health Facilities Licensure and
1461 Certification of the State Department of Health shall provide the
1462 same oversight for the repair or the rebuilding of the damaged
1463 health care facility that it provides to all health care facility
1464 construction projects in the state.

1465 For the purposes of this subsection (13), "significant
1466 damage" to a health care facility means damage to the health care
1467 facility requiring an expenditure of at least One Million Dollars
1468 (\$1,000,000.00).

1469 (14) The State Department of Health shall issue a
1470 certificate of need to any hospital which is currently licensed
1471 for two hundred fifty (250) or more acute care beds and is located
1472 in any general hospital service area not having a comprehensive
1473 cancer center, for the establishment and equipping of such a
1474 center which provides facilities and services for outpatient
1475 radiation oncology therapy, outpatient medical oncology therapy,
1476 and appropriate support services including the provision of
1477 radiation therapy services. The provisions of Section 41-7-193(1)
1478 regarding substantial compliance with the projection of need as
1479 reported in the current State Health Plan are waived for the
1480 purpose of this subsection.

1481 (15) The State Department of Health may authorize the
1482 transfer of hospital beds, not to exceed sixty (60) beds, from the
1483 North Panola Community Hospital to the South Panola Community



1484 Hospital. The authorization for the transfer of those beds shall
1485 be exempt from the certificate of need review process.

1486 (16) The State Department of Health shall issue any
1487 certificates of need necessary for Mississippi State University
1488 and a public or private health care provider to jointly acquire
1489 and operate a linear accelerator and a magnetic resonance imaging
1490 unit. Those certificates of need shall cover all capital
1491 expenditures related to the project between Mississippi State
1492 University and the health care provider, including, but not
1493 limited to, the acquisition of the linear accelerator, the
1494 magnetic resonance imaging unit and other radiological modalities;
1495 the offering of linear accelerator and magnetic resonance imaging
1496 services; and the cost of construction of facilities in which to
1497 locate these services. The linear accelerator and the magnetic
1498 resonance imaging unit shall be (a) located in the City of
1499 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1500 Mississippi State University and the public or private health care
1501 provider selected by Mississippi State University through a
1502 request for proposals (RFP) process in which Mississippi State
1503 University selects, and the Board of Trustees of State
1504 Institutions of Higher Learning approves, the health care provider
1505 that makes the best overall proposal; (c) available to Mississippi
1506 State University for research purposes two-thirds (2/3) of the
1507 time that the linear accelerator and magnetic resonance imaging
1508 unit are operational; and (d) available to the public or private



1509 health care provider selected by Mississippi State University and
1510 approved by the Board of Trustees of State Institutions of Higher
1511 Learning one-third (1/3) of the time for clinical, diagnostic and
1512 treatment purposes. For purposes of this subsection, the
1513 provisions of Section 41-7-193(1) requiring substantial compliance
1514 with the projection of need as reported in the current State
1515 Health Plan are waived.

1516 (17) The State Department of Health shall issue a
1517 certificate of need for the construction of an acute care hospital
1518 in Kemper County, not to exceed twenty-five (25) beds, which shall
1519 be named the "John C. Stennis Memorial Hospital." In issuing the
1520 certificate of need under this subsection, the department shall
1521 give priority to a hospital located in Lauderdale County that has
1522 two hundred fifteen (215) beds. For purposes of this subsection,
1523 the provisions of Section 41-7-193(1) requiring substantial
1524 compliance with the projection of need as reported in the current
1525 State Health Plan and the provisions of Section 41-7-197 requiring
1526 a formal certificate of need hearing process are waived. There
1527 shall be no prohibition or restrictions on participation in the
1528 Medicaid program (Section 43-13-101 et seq.) for the person or
1529 entity receiving the certificate of need authorized under this
1530 subsection or for the beds constructed under the authority of that
1531 certificate of need.

1532 (18) The planning, design, construction, renovation,
1533 addition, furnishing and equipping of a clinical research unit at



1534 any health care facility defined in Section 41-7-173(* * *e) that
1535 is under the direction and control of the University of
1536 Mississippi Medical Center and located in Jackson, Mississippi,
1537 and the addition of new beds or the conversion of beds from one
1538 (1) category to another in any such clinical research unit, shall
1539 not require the issuance of a certificate of need under Section
1540 41-7-171 et seq., notwithstanding any provision in Section
1541 41-7-171 et seq. to the contrary.

1542 * * *

1543 (* * *19) Nothing in this section or in any other provision
1544 of Section 41-7-171 et seq. shall prevent any nursing facility
1545 from designating an appropriate number of existing beds in the
1546 facility as beds for providing care exclusively to patients with
1547 Alzheimer's disease.

1548 **SECTION 7.** Section 41-7-193, Mississippi Code of 1972, is
1549 amended as follows:

1550 41-7-193. (1) No person may enter into any financing
1551 arrangement or commitment for financing a * * * project requiring
1552 a certificate of need unless such certificate has been granted for
1553 such purpose. A certificate of need shall not be granted or
1554 issued to any person for any proposal, cause or reason, unless the
1555 proposal has been reviewed for consistency with the specifications
1556 and the criteria established by the State Department of Health and
1557 substantially complies with the projection of need as reported in



1558 the state health plan in effect at the time the application for
1559 the proposal was submitted.

1560 (2) An application for a certificate of need for * * * a
1561 proposal requiring a certificate of need shall specify the time,
1562 within that granted, such shall be functional or operational
1563 according to a time schedule submitted with the application. Each
1564 certificate of need shall specify the maximum amount of capital
1565 expenditure that may be obligated. The State Department of Health
1566 shall periodically review the progress and time schedule of any
1567 person issued or granted a certificate of need for any purpose.

1568 **SECTION 8.** Section 41-7-201, Mississippi Code of 1972, is
1569 amended as follows:

1570 41-7-201. The provisions of this section shall apply to any
1571 party appealing any final order of the State Department of Health
1572 pertaining to a certificate of need for any health care facility
1573 as defined in Section 41-7-173(* * *e):

1574 (a) There shall be a "stay of proceedings" of any final
1575 order issued by the State Department of Health pertaining to the
1576 issuance of a certificate of need for the establishment,
1577 construction, expansion or replacement of a health care facility
1578 for a period of thirty (30) days from the date of the order, if an
1579 existing provider located in the same service area where the
1580 health care facility is or will be located has requested a hearing
1581 during the course of review in opposition to the issuance of the
1582 certificate of need. The stay of proceedings shall expire at the



1583 termination of thirty (30) days; however, no construction,
1584 renovation or other capital expenditure that is the subject of the
1585 order shall be undertaken, no license to operate any facility that
1586 is the subject of the order shall be issued by the licensing
1587 agency, and no certification to participate in the Title XVIII or
1588 Title XIX programs of the Social Security Act shall be granted,
1589 until all statutory appeals have been exhausted or the time for
1590 those appeals has expired. * * *

1591 (b) In addition to other remedies now available at law
1592 or in equity, any party aggrieved by any such final order of the
1593 State Department of Health shall have the right of direct appeal
1594 to the Mississippi Supreme Court, which appeal must be filed
1595 within twenty (20) days after the date of the final order. Any
1596 appeal shall state briefly the nature of the proceedings before
1597 the State Department of Health and shall specify the order
1598 complained of.

1599 (c) Upon the filing of such an appeal, the Clerk of the
1600 Supreme Court shall serve notice thereof upon the State Department
1601 of Health, whereupon the State Department of Health shall, within
1602 thirty (30) days of the date of the filing of the appeal, certify
1603 to the court the record in the case, which records shall include a
1604 transcript of all testimony, together with all exhibits or copies
1605 thereof, all pleadings, proceedings, orders, findings and opinions
1606 entered in the case; however, the parties and the State Department



1607 of Health may stipulate that a specified portion only of the
1608 record shall be certified to the court as the record on appeal.

1609 (d) Any appeal of a final order by the State Department
1610 of Health in a certificate of need proceeding shall require the
1611 giving of a bond by the appellant(s) sufficient to secure the
1612 appellee against the loss of costs, fees, expenses and attorney's
1613 fees incurred in defense of the appeal, approved by the Supreme
1614 Court within five (5) days of the date of filing the appeal.

1615 (e) No new or additional evidence shall be introduced
1616 in the Supreme Court, but the case shall be determined upon the
1617 record certified to the court.

1618 (f) The Supreme Court may sustain or dismiss the
1619 appeal, modify or vacate the order complained of, in whole or in
1620 part, and may make an award of costs, fees, expenses and
1621 attorney's fees, as the case may be; but in case the order is
1622 wholly or partly vacated, the court may also, in its discretion,
1623 remand the matter to the State Department of Health for any
1624 further proceedings, not inconsistent with the court's order, as,
1625 in the opinion of the court, justice may require. The court, as
1626 part of the final order, shall make an award of costs, fees,
1627 reasonable expenses and attorney's fees incurred in favor of
1628 appellee payable by the appellant(s) if the court affirms the
1629 order of the State Department of Health. The order shall not be
1630 vacated or set aside, either in whole or in part, except for
1631 errors of law, unless the court finds that the order of the State



1632 Department of Health is not supported by substantial evidence, is
1633 contrary to the manifest weight of the evidence, is in excess of
1634 the statutory authority or jurisdiction of the State Department of
1635 Health, or violates any vested constitutional rights of any party
1636 involved in the appeal.

1637 (g) Within thirty (30) days from the date of a final
1638 order by the Supreme Court that modifies or wholly or partly
1639 vacates the final order of the State Department of Health granting
1640 a certificate of need, the State Department of Health shall issue
1641 another order in conformity with the final order of the Supreme
1642 Court.

1643 **SECTION 9.** Section 41-7-202, Mississippi Code of 1972, is
1644 amended as follows:

1645 41-7-202. There shall be a "stay of proceedings" of any
1646 written decision of the State Department of Health pertaining to a
1647 certificate of need for a home health agency, as defined in
1648 Section 41-7-173(* * *e)(ix), for a period of thirty (30) days
1649 from the date of that decision. The stay of proceedings shall
1650 expire at the termination of thirty (30) days; however, no license
1651 to operate any such home health agency that is the subject of the
1652 decision shall be issued by the licensing agency, and no
1653 certification for such home health agency to participate in the
1654 Title XVIII or Title XIX programs of the Social Security Act shall
1655 be granted until all statutory appeals have been exhausted or the
1656 time for such appeals has expired. The stay of proceedings



1657 provided for in this section shall not apply to any party
1658 appealing any final order of the State Department of Health
1659 pertaining to a certificate of need for any health care facility
1660 as defined in Section 41-7-173(* * *e), with the exception of any
1661 home health agency as defined in Section 41-7-173(* * *e)(ix).

1662 **SECTION 10.** Section 41-7-205, Mississippi Code of 1972, is
1663 amended as follows:

1664 41-7-205. The State Department of Health shall provide an
1665 expedited review for those projects which it determines to warrant
1666 such action. All requests for such an expedited review by the
1667 applicant must be made in writing to the State Department of
1668 Health. The State Department of Health shall make a determination
1669 as to whether expedited review is appropriate within fifteen (15)
1670 days after receipt of a written request. The State Department of
1671 Health shall render its decision concerning the issuance of a
1672 certificate of need within ninety (90) days after the receipt of a
1673 completed application. A project is subject to expedited review
1674 only if it meets one (1) of the following criteria:

1675 * * *

1676 (* * *a) A request for project cost overruns that
1677 exceed the rate of inflation as determined by the State Department
1678 of Health;

1679 (* * *b) A request for relocation of * * * facilities
1680 if the relocation of * * * those facilities * * * is more than one



1681 thousand three hundred twenty (1,320) feet from the main entrance
1682 of the health care facility * * *; and

1683 (* * *c) A request for a certificate of need to comply
1684 with duly recognized fire, building, or life safety codes, or to
1685 comply with state licensure standards or accreditation standards
1686 required for reimbursements * * *.

1687 * * *

1688 **SECTION 11.** Section 41-7-207, Mississippi Code of 1972, is
1689 amended as follows:

1690 41-7-207. Notwithstanding any other provisions of Sections
1691 41-7-171 through 41-7-209, except when the owner of a damaged
1692 health care facility applies to repair or rebuild the facility in
1693 accordance with the provisions of Section 41-7-191(13), when the
1694 need for any emergency replacement occurs, the certificate of need
1695 review process shall be expedited by promulgation of
1696 administrative procedures for expenditures necessary to alleviate
1697 an emergency condition and restore health care access. Emergency
1698 replacement means the replacement, and/or a necessary relocation,
1699 of all or the damaged part of the facilities * * * without which
1700 the operation of the facility and the health and safety of
1701 patients would be immediately jeopardized and health care access
1702 would be denied to such patients. Expenditures under this section
1703 shall be limited to the replacement of those necessary
1704 facilities * * * the loss of which constitutes an emergency;
1705 however, in the case of the destruction or major damage to a



1706 health care facility, the department shall be authorized to issue
1707 a certificate of need to address the current and future health
1708 care needs of the community, including, but not limited to, the
1709 expansion of the health care facility and/or the relocation of the
1710 health care facility. In exercising the authority granted in this
1711 section, the department may waive all or part of the required
1712 certificate of need application fee for any application filed
1713 under this section if the expenditure would create a further
1714 hardship or undue burden on the health care facility.

1715 **SECTION 12.** Section 41-4-18, Mississippi Code of 1972, is
1716 amended as follows:

1717 41-4-18. (1) Notwithstanding Section 41-7-191(11) and
1718 Section 41-7-171 et seq. * * * or any other section of law, the
1719 Department of Mental Health shall have the authority to contract
1720 with private and/or public entities to transfer beds within
1721 Intermediate Care Facilities for the Mentally Retarded owned and
1722 operated by the Department of Mental Health to locations owned and
1723 operated by private and/or public entities for the purpose of
1724 serving individuals with intellectual disabilities in the settings
1725 most appropriate to meet their needs.

1726 (2) Any license granted to the Department of Mental Health
1727 by the Department of Health for the operation of transferred
1728 Intermediate Care Facility for the Mentally Retarded beds shall
1729 remain in the name of the Department of Mental Health * * *.



1730 **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is
1731 amended as follows:

1732 41-73-5. When used in this act, unless the context requires
1733 a different definition, the following terms shall have the
1734 following meanings:

1735 (a) "Act" means the Mississippi Hospital Equipment and
1736 Facilities Authority Act.

1737 (b) "Authority" means the Mississippi Hospital
1738 Equipment and Facilities Authority created by this act and any
1739 successor to its functions.

1740 (c) "Bonds" means bonds, notes or other evidences of
1741 indebtedness of the authority issued pursuant to this act,
1742 including refunding bonds.

1743 (d) "Cost" as applied to hospital equipment means any
1744 and all costs of such hospital equipment and, without limiting the
1745 generality of the foregoing, shall include the following:

1746 (i) All costs of the acquisition, repair,
1747 restoration, reconditioning, refinancing or installation of any
1748 such hospital equipment and all costs incident or related thereto;

1749 (ii) The cost of any property interest in such
1750 hospital equipment including an option to purchase or leasehold
1751 interest;

1752 (iii) The cost of architectural, engineering,
1753 legal and related services; the cost of the preparation of plans,
1754 specifications, studies, surveys and estimates of cost and of



1755 revenue; and all other expenses necessary or incident to planning,
1756 providing or determining the need for or the feasibility and
1757 practicability of such hospital equipment; and the cost of
1758 providing or establishing a reasonable reserve fund for the
1759 payment of principal and interest on bonds;

1760 (iv) The cost of financing charges, including
1761 premiums or prepayment penalties, if any, and interest accrued
1762 prior to the acquisition and installation or refinancing of such
1763 hospital equipment and after such acquisition and installation or
1764 refinancing and start-up costs related to hospital equipment;

1765 (v) Any and all costs paid or incurred in
1766 connection with the financing of such hospital equipment,
1767 including out-of-pocket expenses, the cost of financing, legal,
1768 accounting, financial advisory and consulting fees, expenses and
1769 disbursements; the cost of any policy of insurance; the cost of
1770 printing, engraving and reproduction services; and the cost of the
1771 initial or acceptance fee of any trustee or paying agent;

1772 (vi) All direct or indirect costs of the authority
1773 incurred in connection with providing such hospital equipment,
1774 including, without limitation, reasonable sums to reimburse the
1775 authority for time spent by its agents or employees with respect
1776 to providing such hospital equipment and the financing thereof;
1777 and

1778 (vii) Any and all costs paid or incurred for the
1779 administration of any program for the purchase or lease of or the



1780 making of loans for hospital equipment, by the authority and any
1781 program for the sale or lease of or the making of loans for such
1782 hospital equipment to any participating hospital institution.

1783 (e) "Cost," as applied to hospital facilities, means
1784 any and all costs of such hospital facilities and, without
1785 limiting the generality of the foregoing, shall include the
1786 following:

1787 (i) All costs of the establishment, demolition,
1788 site development of new and rehabilitated buildings,
1789 rehabilitation, reconstruction repair, erection, building,
1790 construction, remodeling, adding to and furnishing of any such
1791 hospital facilities and all costs incident or related thereto;

1792 (ii) The cost of acquiring any property interest
1793 in such hospital facilities including the purchase thereof, the
1794 cost of an option to purchase or the cost of any leasehold
1795 interest;

1796 (iii) The cost of architectural, engineering,
1797 legal and related services; the cost of the preparation of plans,
1798 specifications, studies, surveys and estimates of cost and of
1799 revenue; all other expenses necessary or incident to planning,
1800 providing or determining the need for or the feasibility and
1801 practicability of such hospital facilities or the acquisition
1802 thereof; and the cost of providing or establishing a reasonable
1803 reserve fund for the payment of principal of and interest on
1804 bonds;



1805 (iv) The cost of financing charges, including
1806 premiums or prepayment penalties, if any, and interest accrued
1807 prior to the acquisition and completion or refinancing of such
1808 hospital facilities and after such acquisition and completion or
1809 refinancing and start-up costs related to hospital facilities;

1810 (v) Any and all costs paid or incurred in
1811 connection with the financing of such hospital facilities,
1812 including out-of-pocket expenses, the cost of financing, legal,
1813 accounting, financial advisory and consulting fees, expenses and
1814 disbursement; the cost of any policy of insurance; the cost of
1815 printing, engraving and reproduction services; and the cost of the
1816 initial or acceptance fee of any trustee or paying agent;

1817 (vi) All direct or indirect costs of the authority
1818 incurred in connection with providing such hospital facilities,
1819 including, without limitation, reasonable sums to reimburse the
1820 authority for time spent by its agents or employees with respect
1821 to providing such hospital facilities and the financing thereof;

1822 (vii) Any and all costs paid or incurred for the
1823 administration of any program for the purchase or lease of or the
1824 making of loans for hospital facilities, by the authority and any
1825 program for the sale or lease of or the making of loans for such
1826 hospital facilities to any participating hospital institution; and

1827 (viii) The cost of providing for the payment or
1828 the making provision for the payment of, by the appropriate
1829 escrowing of monies or securities, the principal of and interest



1830 on which when due will be adequate to make such payment, any
1831 indebtedness encumbering the revenues or property of a
1832 participating hospital institution, whether such payment is to be
1833 effected by redemption of such indebtedness prior to maturity or
1834 not.

1835 (f) "Hospital equipment" means any personal property
1836 which is found and determined by the authority to be required or
1837 necessary or helpful for medical care, research, training or
1838 teaching, any one (1) or all, in hospital facilities located in
1839 the state, irrespective of whether such property is in existence
1840 at the time of, or is to be provided after the making of, such
1841 finding. * * *

1842 (g) "Hospital facility" or "hospital facilities" means
1843 buildings and structures of any and all types used or useful, in
1844 the discretion of the authority, for providing any types of care
1845 to the sick, wounded, infirmed, needy, mentally incompetent or
1846 elderly and shall include, without limiting the generality of the
1847 foregoing, out-patient clinics, laboratories, laundries, nurses',
1848 doctors' or interns' residences, administration buildings, office
1849 buildings, facilities for research directly involved with hospital
1850 care, maintenance, storage or utility facilities, parking lots,
1851 and garages and all necessary, useful, or related furnishings, and
1852 appurtenances and all lands necessary or convenient as a site for
1853 the foregoing.



1854 (h) "Participating hospital institution" or "hospital
1855 institution" means a public or private corporation, association,
1856 foundation, trust, cooperative, agency, body politic, or other
1857 person or organization which provides or operates or proposes to
1858 provide or operate hospital facilities not for profit, and which,
1859 pursuant to the provisions of this act, contracts with the
1860 authority for the financing or refinancing of the lease or other
1861 acquisition of hospital equipment or hospital facilities, or both.

1862 (i) "State" means the State of Mississippi.

1863 The use of singular terms herein shall also include the
1864 plural of such term and the use of a plural term herein shall also
1865 include the singular of such term unless the context clearly
1866 requires a different connotation.

1867 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is
1868 amended as follows:

1869 41-75-1. For the purpose of this chapter:

1870 (a) "Ambulatory surgical facility" means a publicly or
1871 privately owned institution that is primarily organized,
1872 constructed, renovated or otherwise established for the purpose of
1873 providing elective surgical treatment of "outpatients" whose
1874 recovery, under normal and routine circumstances, will not require
1875 "inpatient" care. The facility defined in this paragraph does not
1876 include the offices of private physicians or dentists, whether
1877 practicing individually or in groups, but does include
1878 organizations or facilities primarily engaged in that outpatient



1879 surgery, whether using the name "ambulatory surgical facility" or
1880 a similar or different name. That organization or facility, if in
1881 any manner considered to be operated or owned by a hospital or a
1882 hospital holding, leasing or management company, either for profit
1883 or not for profit, is required to comply with all licensing agency
1884 ambulatory surgical licensure standards governing a "hospital
1885 affiliated" facility as adopted under Section 41-9-1 et seq.,
1886 provided that the organization or facility does not intend to seek
1887 federal certification as an ambulatory surgical facility as
1888 provided for at 42 CFR, Parts 405 and 416. If the organization or
1889 facility is to be operated or owned by a hospital or a hospital
1890 holding, leasing or management company and intends to seek federal
1891 certification as an ambulatory facility, then the facility is
1892 considered to be "freestanding" and must comply with all licensing
1893 agency ambulatory surgical licensure standards governing a
1894 "freestanding" facility.

1895 If the organization or facility is to be owned or operated by
1896 an entity or person other than a hospital or hospital holding,
1897 leasing or management company, then the organization or facility
1898 must comply with all licensing agency ambulatory surgical facility
1899 standards governing a "freestanding" facility.

1900 (b) "Hospital affiliated" ambulatory surgical facility
1901 means a separate and distinct organized unit of a hospital or a
1902 building owned, leased, rented or utilized by a hospital and
1903 located in the same county in which the hospital is located, for



1904 the primary purpose of performing ambulatory surgery procedures.
1905 The facility is not required to be separately licensed under this
1906 chapter and may operate under the hospital's license in compliance
1907 with all applicable requirements of Section 41-9-1 et seq.

1908 (c) "Freestanding" ambulatory surgical facility means a
1909 separate and distinct facility or a separate and distinct
1910 organized unit of a hospital owned, leased, rented or utilized by
1911 a hospital or other persons for the primary purpose of performing
1912 ambulatory surgery procedures. The facility must be separately
1913 licensed as defined in this section and must comply with all
1914 licensing standards promulgated by the licensing agency under this
1915 chapter regarding a "freestanding" ambulatory surgical facility.
1916 Further, the facility must be a separate, identifiable entity and
1917 must be physically, administratively and financially independent
1918 and distinct from other operations of any other health facility,
1919 and shall maintain a separate organized medical and administrative
1920 staff. * * *

1921 (d) "Ambulatory surgery" means surgical procedures that
1922 are more complex than office procedures performed under local
1923 anesthesia, but less complex than major procedures requiring
1924 prolonged postoperative monitoring and hospital care to ensure
1925 safe recovery and desirable results. General anesthesia is used
1926 in most cases. The patient must arrive at the facility and expect
1927 to be discharged on the same day. Ambulatory surgery shall only



1928 be performed by physicians or dentists licensed to practice in the
1929 State of Mississippi.

1930 (e) "Abortion" means the use or prescription of any
1931 instrument, medicine, drug or any other substances or device to
1932 terminate the pregnancy of a woman known to be pregnant with an
1933 intention other than to increase the probability of a live birth,
1934 to preserve the life or health of the child after live birth or to
1935 remove a dead fetus. Abortion procedures after the first
1936 trimester shall only be performed at a Level I abortion facility
1937 or an ambulatory surgical facility or hospital licensed to perform
1938 that service.

1939 (f) "Abortion facility" means a facility operating
1940 substantially for the purpose of performing abortions and is a
1941 separate identifiable legal entity from any other health care
1942 facility. Abortions shall only be performed by physicians
1943 licensed to practice in the State of Mississippi. All physicians
1944 associated with the abortion facility must have admitting
1945 privileges at a local hospital and staff privileges to replace
1946 local hospital on-staff physicians. All physicians associated
1947 with an abortion facility must be board certified or eligible in
1948 obstetrics and gynecology, and a staff member trained in CPR shall
1949 always be present at the abortion facility when it is open. The
1950 term "abortion facility" includes physicians' offices that are
1951 used substantially for the purpose of performing abortions. An



1952 abortion facility operates substantially for the purpose of
1953 performing abortions if any of the following conditions are met:

1954 (i) The abortion facility is a provider for
1955 performing ten (10) or more abortion procedures per calendar month
1956 during any month of a calendar year, or one hundred (100) or more
1957 in a calendar year.

1958 (ii) The abortion facility, if operating less than
1959 twenty (20) days per calendar month, is a provider for performing
1960 ten (10) or more abortion procedures, or performing a number of
1961 abortion procedures that would be equivalent to ten (10)
1962 procedures per month, if the facility were operating twenty (20)
1963 or more days per calendar month, in any month of a calendar year.

1964 (iii) The abortion facility holds itself out to
1965 the public as an abortion provider by advertising by any public
1966 means, such as newspaper, telephone directory, magazine or
1967 electronic media, that it performs abortions.

1968 (iv) The facility applies to the licensing agency
1969 for licensure as an abortion facility.

1970 (g) "Licensing agency" means the State Department of
1971 Health.

1972 (h) "Operating" an abortion facility means that the
1973 facility is open for any period of time during a day and has on
1974 site at the facility or on call a physician licensed to practice
1975 in the State of Mississippi available to provide abortions.



1976 An abortion facility may apply to be licensed as a Level I
1977 facility or a Level II facility by the licensing agency. Level II
1978 abortion facilities shall be required to meet minimum standards
1979 for abortion facilities as established by the licensing agency.
1980 Level I abortion facilities shall be required to meet minimum
1981 standards for abortion facilities and minimum standards for
1982 ambulatory surgical facilities as established by the licensing
1983 agency.

1984 Any abortion facility that begins operation after June 30,
1985 1996, shall not be located within * * * one thousand five hundred
1986 (1,500) feet from the property on which any church, school or
1987 kindergarten is located. An abortion facility shall not be in
1988 violation of this paragraph if it is in compliance with this
1989 paragraph on the date it begins operation and the property on
1990 which a church, school or kindergarten is located * * *
1991 within * * * one thousand five hundred (1,500) feet from the
1992 facility.

1993 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is
1994 amended as follows:

1995 41-75-5. No person * * * or other entity, acting severally
1996 or jointly with any other person or entity, shall establish,
1997 conduct, operate or maintain an ambulatory surgical facility or an
1998 abortion facility in this state without a license under this
1999 chapter.



2000 **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is
2001 amended as follows:

2002 41-75-9. Upon receipt of an application for license and the
2003 license fee, the licensing agency shall issue a license if the
2004 applicant and the institutional facilities meet the requirements
2005 established under this chapter and if the requirements of
2006 Section * * * 41-7-171 et seq. * * * have been met for abortion
2007 facilities. A license, unless suspended or revoked, shall be
2008 renewable annually upon payment of a renewal fee of Three Thousand
2009 Dollars (\$3,000.00), which shall be paid to the licensing agency,
2010 and upon filing by the licensee and approval by the licensing
2011 agency of an annual report upon such uniform dates and containing
2012 such information in such form as the licensing agency requires.
2013 Each license shall be issued only for the premises and person or
2014 persons named in the application and shall not be transferable or
2015 assignable. Licenses shall be posted in a conspicuous place on
2016 the licensed premises.

2017 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is
2018 amended as follows:

2019 41-75-25. Any person or persons or other entity or entities
2020 establishing, managing or operating an ambulatory surgical
2021 facility or conducting the business of an ambulatory surgical
2022 facility without the required license, or which otherwise violate
2023 any of the provisions of this chapter * * * or the rules,
2024 regulations or standards promulgated in furtherance of any law in



2025 which the * * * licensing agency has authority therefor shall be
2026 subject to the following penalties and sanctions * * *:

2027 (a) Revocation of the license of the ambulatory
2028 surgical facility or a designated section, component or service
2029 thereof; or

2030 (b) Nonlicensure of a specific or designated service
2031 offered by the ambulatory surgical facility.

2032 In addition, any violation of any provision of this chapter
2033 or any rules or regulations promulgated in furtherance thereof by
2034 intent, fraud, deceit, unlawful design, willful and/or deliberate
2035 misrepresentation, or by careless, negligent or incautious
2036 disregard for such statutes or rules and regulations, either by
2037 persons acting individually or in concert with others, shall
2038 constitute a misdemeanor and shall be punishable by a fine not to
2039 exceed One Thousand Dollars (\$1,000.00) for each such offense.
2040 Each day of continuing violation shall be considered a separate
2041 offense. The venue for prosecution of any such violation shall be
2042 in any county of the state in which any such violation, or portion
2043 thereof, occurred.

2044 **SECTION 18.** This act shall take effect and be in force from
2045 and after July 1, 2016.

