

By: Representative Foster

To: Public Health and Human Services

HOUSE BILL NO. 48

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, 41-7-193,41-7-197, 41-7-201,
 3 41-7-202, 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 * * * intellectually disabled, home health



72 agencies, psychiatric residential treatment facilities, pediatric
73 skilled nursing facilities, long-term care hospitals,
74 comprehensive medical rehabilitation facilities, including
75 facilities owned or operated by the state or a political
76 subdivision or instrumentality of the state, but does not include
77 Christian Science sanatoriums operated or listed and certified by
78 the First Church of Christ, Scientist, Boston, Massachusetts.
79 This definition shall not apply to facilities for the private
80 practice, either independently or by incorporated medical groups,
81 of 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 intellectually disabled" 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 * * *a. Physical Therapy;
- 224 * * *b. Occupational Therapy;
- 225 * * *c. Speech and Language Therapy;
- 226 * * *d. Rehabilitation Nursing; and
- 227 4. Incorporates at least three (3) of the
228 following disciplines:
- 229 * * *a. Psychology;
- 230 * * *b. Audiology;
- 231 * * *c. Respiratory Therapy;
- 232 * * *d. Therapeutic Recreation;
- 233 * * *e. Orthotics;
- 234 * * *f. Prosthetics;
- 235 * * *g. Special Education;
- 236 * * *h. Vocational Rehabilitation;
- 237 * * *i. Psychotherapy;
- 238 * * *j. Social Work;
- 239 * * *k. 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" or "department"
268 shall mean the 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
312 Section * * * 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 * * * authorized
341 to develop and implement a statewide health certificate of need



342 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 * * * the relocation of * * * the health
397 care 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 * * * intellectually disabled (ICF-ID) beds
1021 to 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 * * *



1411 intellectually disabled) and subparagraph (x) (psychiatric
1412 residential treatment facility) of Section 41-7-173(* * *e) which
1413 is owned by the State of Mississippi and under the direction and
1414 control of the State Department of Mental Health, and the addition
1415 of new beds or the conversion of beds from one category to another
1416 in any such defined health care facility which is owned by the
1417 State of Mississippi and under the direction and control of the
1418 State Department of Mental Health, shall not require the issuance
1419 of a 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 (3) An application for a certificate of need may be filed at
1569 any time with the department after the applicant has given the
1570 department fifteen (15) days' written notice of its intent to
1571 apply for a certificate of need. The department shall not delay
1572 review of an application. The department shall make its
1573 recommendation approving or disapproving a complete application
1574 within forty-five (45) days of the date the application was filed
1575 or within fifteen (15) days of receipt of any requested
1576 information, whichever is later, * * * the request to be made by
1577 the department within fifteen (15) days of the filing of the
1578 application.

1579 **SECTION 8.** Section 41-7-197, Mississippi Code of 1972, is
1580 amended as follows:

1581 41-7-197. (1) The State Department of Health shall adopt
1582 and * * * use procedures for conducting certificate of need



1583 reviews. Such procedures shall include, inter alia, the following:
1584 (a) written notification to the applicant; (b) written
1585 notification to health care facilities in the same health service
1586 area as the proposed * * * health care facility; (c) written
1587 notification to other persons who * * * before the receipt of the
1588 application have filed a formal notice of intent to * * * operate
1589 a health care facility in the same service area; and (d)
1590 notification to members of the public who reside in the service
1591 area where the * * * facility is proposed, which may be provided
1592 through newspapers or public information channels.

1593 (2) All notices provided shall include, inter alia, the
1594 following: (a) the proposed schedule for the review; (b) written
1595 notification of the period within which a public hearing during
1596 the course of the review may be requested in writing by one or
1597 more affected persons, such request to be made within ten (10)
1598 days of the department's staff recommendation for approval or
1599 disapproval of an application; and (c) the manner in which
1600 notification will be provided of the time and place of any hearing
1601 so requested. Any such hearing shall be * * * begun by an
1602 independent hearing officer designated by the State Department of
1603 Health within sixty (60) days of the filing of the hearing request
1604 unless all parties to the hearing agree to extend the time for
1605 the * * * beginning of the hearing. At such hearing, the hearing
1606 officer and any person affected by the proposal being reviewed may
1607 conduct reasonable questioning of persons who make relevant



1608 factual allegations concerning the proposal. The hearing officer
1609 shall require that all persons be sworn before they may offer any
1610 testimony at the hearing, and the hearing officer is authorized to
1611 administer oaths. Any person so choosing may be represented by
1612 counsel at the hearing. A record of the hearing shall be made,
1613 which shall consist of a transcript of all testimony received, all
1614 documents and other material introduced by any interested person,
1615 the staff report and recommendation and such other material as the
1616 hearing officer considers relevant, including his own
1617 recommendation, which he shall make, after reviewing, studying and
1618 analyzing the evidence presented during the hearing, within a
1619 reasonable period of time after the hearing is closed, which in no
1620 event shall exceed forty-five (45) days. The completed record
1621 shall be certified to the State Health Officer, who shall consider
1622 only the record in making his decision, and shall not consider any
1623 evidence or material * * * that is not included * * * in the
1624 record. All final decisions regarding the issuance of a
1625 certificate of need shall be made by the State Health Officer.
1626 The State Health Officer shall make his or her written findings
1627 and issue his or her order after reviewing * * * the record. The
1628 findings and decision of the State Health Officer shall not be
1629 deferred to any later date.

1630 (3) Unless a hearing is held, if review by the State
1631 Department of Health concerning the issuance of a certificate of
1632 need is not complete with a final decision issued by the State



1633 Health Officer within the time specified by rule or regulation,
1634 which shall not exceed ninety (90) days from the filing of the
1635 application for a certificate of need, the proponent of the
1636 proposal may, within thirty (30) days after the expiration of the
1637 specified time for review, * * * begin such legal action as is
1638 necessary, in the Chancery Court of the First Judicial District of
1639 Hinds County or in the chancery court of the county in which
1640 the * * * facility is proposed to be * * * operated, to compel the
1641 State Health Officer to issue written findings and written order
1642 approving or disapproving the proposal in question.

1643 **SECTION 9.** Section 41-7-201, Mississippi Code of 1972, is
1644 amended as follows:

1645 41-7-201. (1) The provisions of this subsection (1) shall
1646 apply to any party appealing any final order of the State
1647 Department of Health pertaining to a certificate of need for a
1648 home health agency, as defined in Section 41-7-173(* * * e)(ix):

1649 (a) In addition to other remedies now available at law
1650 or in equity, any party aggrieved by any such final order of the
1651 State Department of Health shall have the right of appeal to the
1652 Chancery Court of the First Judicial District of Hinds County,
1653 Mississippi, which appeal must be filed within thirty (30) days
1654 after the date of the final order. * * * However, * * * any
1655 appeal of an order disapproving an application for such a
1656 certificate of need may be made to the chancery court of the
1657 county where the proposed construction, expansion or alteration



1658 was to be located * * *. Such appeal must be filed in accordance
1659 with the thirty (30) days for filing as * * * provided in this
1660 paragraph. Any appeal shall state briefly the nature of the
1661 proceedings before the State Department of Health and shall
1662 specify the order complained of. Any appeal shall state briefly
1663 the nature of the proceedings before the State Department of
1664 Health and shall specify the order complained of. Any person
1665 whose rights may be materially affected by the action of the State
1666 Department of Health may appear and become a party or the court
1667 may, upon motion, order that any such person, organization or
1668 entity be joined as a necessary party.

1669 (b) Upon the filing of such an appeal, the clerk of the
1670 chancery court shall serve notice thereof upon the State
1671 Department of Health, whereupon the State Department of Health
1672 shall, within thirty (30) days or within such additional time as
1673 the court may by order for cause allow from the service of such
1674 notice, certify to the chancery court the record in the case,
1675 which records shall include a transcript of all testimony,
1676 together with all exhibits or copies thereof, all pleadings,
1677 proceedings, orders, findings and opinions entered in the
1678 case; * * * however, * * * the parties and the State Department of
1679 Health may stipulate that a specified portion only of the record
1680 shall be certified to the court as the record on appeal.

1681 (c) The court may dispose of the appeal in termtime or
1682 vacation and may sustain or dismiss the appeal, modify or vacate



1683 the order complained of, in whole or in part, as the case may be;
1684 but in case the order is wholly or partly vacated, the court may
1685 also, in its discretion, remand the matter to the State Department
1686 of Health for such further proceedings, not inconsistent with the
1687 court's order, as, in the opinion of the court, justice may
1688 require. The order shall not be vacated or set aside, either in
1689 whole or in part, except for errors of law, unless the court finds
1690 that the order of the State Department of Health is not supported
1691 by substantial evidence, is contrary to the manifest weight of the
1692 evidence, is in excess of the statutory authority or jurisdiction
1693 of the State Department of Health, or violates any vested
1694 constitutional rights of any party involved in the appeal. * * *
1695 However, an order of the chancery court reversing the denial of a
1696 certificate of need by the State Department of Health shall not
1697 entitle the applicant to effectuate the certificate of need until
1698 either:

1699 (i) Such order of the chancery court has become
1700 final and has not been appealed to the Supreme Court; or

1701 (ii) The Supreme Court has entered a final order
1702 affirming the chancery court.

1703 (d) Appeals in accordance with law may be had to the
1704 Supreme Court of the State of Mississippi from any final judgment
1705 of the chancery court.

1706 (2) The provisions of this subsection (2) shall apply to any
1707 party appealing any final order of the State Department of Health



1708 pertaining to a certificate of need for any health care facility
1709 as defined in Section 41-7-173(* * *e), with the exception of any
1710 home health agency as defined in Section 41-7-173(* * *e)(ix):

1711 (a) There shall be a "stay of proceedings" of any final
1712 order issued by the State Department of Health pertaining to the
1713 issuance of a certificate of need for the establishment,
1714 construction, expansion or replacement of a health care facility
1715 for a period of thirty (30) days from the date of the order, if an
1716 existing provider located in the same service area where the
1717 health care facility is or will be located has requested a hearing
1718 during the course of review in opposition to the issuance of the
1719 certificate of need. The stay of proceedings shall expire at the
1720 termination of thirty (30) days; however, no construction,
1721 renovation or other capital expenditure that is the subject of the
1722 order shall be undertaken, no license to operate any facility that
1723 is the subject of the order shall be issued by the licensing
1724 agency, and no certification to participate in the Title XVII or
1725 Title XIX programs of the Social Security Act shall be granted,
1726 until all statutory appeals have been exhausted or the time for
1727 such appeals has expired. * * *

1728 (b) In addition to other remedies now available at law
1729 or in equity, any party aggrieved by such final order of the State
1730 Department of Health shall have the right of appeal to the
1731 Chancery Court of the First Judicial District of Hinds County,
1732 Mississippi, which appeal must be filed within twenty (20) days



1733 after the date of the final order. * * * However, * * * any
1734 appeal of an order disapproving an application for such a
1735 certificate of need may be made to the chancery court of the
1736 county where the proposed construction, expansion or alteration
1737 was to be located * * *. Such appeal must be filed in accordance
1738 with the twenty (20) days for filing as * * * provided in this
1739 paragraph. Any appeal shall state briefly the nature of the
1740 proceedings before the State Department of Health and shall
1741 specify the order complained of.

1742 (c) Upon the filing of such an appeal, the clerk of the
1743 chancery court shall serve notice thereof upon the State
1744 Department of Health, whereupon the State Department of Health
1745 shall, within thirty (30) days of the date of the filing of the
1746 appeal, certify to the chancery court the record in the case,
1747 which records shall include a transcript of all testimony,
1748 together with all exhibits or copies thereof, all proceedings,
1749 orders, findings and opinions entered in the case; * * *
1750 however, * * * the parties and the State Department of Health may
1751 stipulate that a specified portion only of the record shall be
1752 certified to the court as the record on appeal. The chancery
1753 court shall give preference to any such appeal from a final order
1754 by the State Department of Health in a certificate of need
1755 proceeding, and shall render a final order regarding such appeal
1756 no later than one hundred twenty (120) days from the date of the
1757 final order by the State Department of Health. If the chancery



1758 court has not rendered a final order within this
1759 one-hundred-twenty-day period, then the final order of the State
1760 Department of Health shall be deemed to have been affirmed by the
1761 chancery court, and any party to the appeal shall have the right
1762 to appeal from the chancery court to the Supreme Court on the
1763 record certified by the State Department of Health as otherwise
1764 provided in paragraph (g) of this subsection. * * * If the
1765 chancery court has not rendered a final order within the
1766 one-hundred-twenty-day period and an appeal is made to the Supreme
1767 Court as provided * * * in this paragraph, the Supreme Court shall
1768 remand the case to the chancery court to make an award of costs,
1769 fees, reasonable expenses and attorney's fees incurred in favor of
1770 appellee payable by the appellant(s) * * * if the Supreme Court
1771 affirms the order of the State Department of Health.

1772 (d) Any appeal of a final order by the State Department
1773 of Health in a certificate of need proceeding shall require the
1774 giving of a bond by the appellant(s) sufficient to secure the
1775 appellee against the loss of costs, fees, expenses and attorney's
1776 fees incurred in defense of the appeal, approved by the chancery
1777 court within five (5) days of the date of filing the appeal.

1778 (e) No new or additional evidence shall be introduced
1779 in the chancery court but the case shall be determined upon the
1780 record certified to the court.

1781 (f) The court may dispose of the appeal in termtime or
1782 vacation and may sustain or dismiss the appeal, modify or vacate



1783 the order complained of in whole or in part and may make an award
1784 of costs, fees, expenses and attorney's fees, as the case may be;
1785 but in case the order is wholly or partly vacated, the court may
1786 also, in its discretion, remand the matter to the State Department
1787 of Health for such further proceedings, not inconsistent with the
1788 court's order, as, in the opinion of the court, justice may
1789 require. The court, as part of the final order, shall make an
1790 award of costs, fees, reasonable expenses and attorney's fees
1791 incurred in favor of appellee payable by the appellant(s) * * * if
1792 the court affirms the order of the State Department of Health.
1793 The order shall not be vacated or set aside, either in whole or in
1794 part, except for errors of law, unless the court finds that the
1795 order of the State Department of Health is not supported by
1796 substantial evidence, is contrary to the manifest weight of the
1797 evidence, is in excess of the statutory authority or jurisdiction
1798 of the State Department of Health, or violates any vested
1799 constitutional rights of any party involved in the appeal. * * *
1800 However, an order of the chancery court reversing the denial of a
1801 certificate of need by the State Department of Health shall not
1802 entitle the applicant to effectuate the certificate of need until
1803 either:
1804 (i) Such order of the chancery court has become
1805 final and has not been appealed to the Supreme Court; or
1806 (ii) The Supreme Court has entered a final order
1807 affirming the chancery court.



1808 (g) Appeals in accordance with law may be had to the
1809 Supreme Court of the State of Mississippi from any final judgment
1810 of the chancery court.

1811 (h) Within thirty (30) days from the date of a final
1812 order by the Supreme Court or a final order of the chancery court
1813 not appealed to the Supreme Court that modifies or wholly or
1814 partly vacates the final order of the State Department of Health
1815 granting a certificate of need, the State Department of Health
1816 shall issue another order in conformity with the final order of
1817 the Supreme Court, or the final order of the chancery court not
1818 appealed to the Supreme Court.

1819 **SECTION 10.** Section 41-7-202, Mississippi Code of 1972, is
1820 amended as follows:

1821 41-7-202. There shall be a "stay of proceedings" of any
1822 written decision of the State Department of Health pertaining to a
1823 certificate of need for a home health agency, as defined in
1824 Section 41-7-173(* * *e)(ix), for a period of thirty (30) days
1825 from the date of that decision. The stay of proceedings shall
1826 expire at the termination of thirty (30) days; however, no license
1827 to operate any such home health agency that is the subject of the
1828 decision shall be issued by the licensing agency, and no
1829 certification for such home health agency to participate in the
1830 Title XVIII or Title XIX programs of the Social Security Act shall
1831 be granted until all statutory appeals have been exhausted or the
1832 time for such appeals has expired. The stay of proceedings



1833 provided for in this section shall not apply to any party
1834 appealing any final order of the State Department of Health
1835 pertaining to a certificate of need for any health care facility
1836 as defined in Section 41-7-173(* * *e), with the exception of any
1837 home health agency as defined in Section 41-7-173(* * *e)(ix).

1838 **SECTION 11.** Section 41-7-207, Mississippi Code of 1972, is
1839 amended as follows:

1840 41-7-207. Notwithstanding any other provisions of Sections
1841 41-7-171 through 41-7-209, except when the owner of a damaged
1842 health care facility applies to repair or rebuild the facility in
1843 accordance with the provisions of Section 41-7-191(13), when the
1844 need for any emergency replacement occurs, the certificate of need
1845 review process shall be expedited by promulgation of
1846 administrative procedures for expenditures necessary to alleviate
1847 an emergency condition and restore health care access. Emergency
1848 replacement means the replacement, and/or a necessary relocation,
1849 of all or the damaged part of the facilities * * * without which
1850 the operation of the facility and the health and safety of
1851 patients would be immediately jeopardized and health care access
1852 would be denied to such patients. Expenditures under this section
1853 shall be limited to the replacement of those necessary
1854 facilities * * * the loss of which constitutes an emergency;
1855 however, in the case of the destruction or major damage to a
1856 health care facility, the department shall be authorized to issue
1857 a certificate of need to address the current and future health



1858 care needs of the community, including, but not limited to, the
1859 expansion of the health care facility and/or the relocation of the
1860 health care facility. In exercising the authority granted in this
1861 section, the department may waive all or part of the required
1862 certificate of need application fee for any application filed
1863 under this section if the expenditure would create a further
1864 hardship or undue burden on the health care facility.

1865 **SECTION 12.** Section 41-4-18, Mississippi Code of 1972, is
1866 amended as follows:

1867 41-4-18. (1) Notwithstanding Section 41-7-191(11) and
1868 Section 41-7-171 et seq. * * * or any other section of law, the
1869 Department of Mental Health shall have the authority to contract
1870 with private and/or public entities to transfer beds within
1871 intermediate care facilities for the * * * intellectually disabled
1872 owned and operated by the Department of Mental Health to locations
1873 owned and operated by private and/or public entities for the
1874 purpose of serving individuals with intellectual disabilities in
1875 the settings most appropriate to meet their needs.

1876 (2) Any license granted to the Department of Mental Health
1877 by the Department of Health for the operation of transferred
1878 intermediate care facility for the * * * intellectually disabled
1879 beds shall remain in the name of the Department of Mental
1880 Health * * *.

1881 **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is
1882 amended as follows:



1883 41-73-5. When used in this act, unless the context requires
1884 a different definition, the following terms shall have the
1885 following meanings:

1886 (a) "Act" means the Mississippi Hospital Equipment and
1887 Facilities Authority Act.

1888 (b) "Authority" means the Mississippi Hospital
1889 Equipment and Facilities Authority created by this act and any
1890 successor to its functions.

1891 (c) "Bonds" means bonds, notes or other evidences of
1892 indebtedness of the authority issued pursuant to this act,
1893 including refunding bonds.

1894 (d) "Cost" as applied to hospital equipment means any
1895 and all costs of such hospital equipment and, without limiting the
1896 generality of the foregoing, shall include the following:

1897 (i) All costs of the acquisition, repair,
1898 restoration, reconditioning, refinancing or installation of any
1899 such hospital equipment and all costs incident or related thereto;

1900 (ii) The cost of any property interest in such
1901 hospital equipment including an option to purchase or leasehold
1902 interest;

1903 (iii) The cost of architectural, engineering,
1904 legal and related services; the cost of the preparation of plans,
1905 specifications, studies, surveys and estimates of cost and of
1906 revenue; and all other expenses necessary or incident to planning,
1907 providing or determining the need for or the feasibility and



1908 practicability of such hospital equipment; and the cost of
1909 providing or establishing a reasonable reserve fund for the
1910 payment of principal and interest on bonds;

1911 (iv) The cost of financing charges, including
1912 premiums or prepayment penalties, if any, and interest accrued
1913 prior to the acquisition and installation or refinancing of such
1914 hospital equipment and after such acquisition and installation or
1915 refinancing and start-up costs related to hospital equipment;

1916 (v) Any and all costs paid or incurred in
1917 connection with the financing of such hospital equipment,
1918 including out-of-pocket expenses, the cost of financing, legal,
1919 accounting, financial advisory and consulting fees, expenses and
1920 disbursements; the cost of any policy of insurance; the cost of
1921 printing, engraving and reproduction services; and the cost of the
1922 initial or acceptance fee of any trustee or paying agent;

1923 (vi) All direct or indirect costs of the authority
1924 incurred in connection with providing such hospital equipment,
1925 including, without limitation, reasonable sums to reimburse the
1926 authority for time spent by its agents or employees with respect
1927 to providing such hospital equipment and the financing thereof;
1928 and

1929 (vii) Any and all costs paid or incurred for the
1930 administration of any program for the purchase or lease of or the
1931 making of loans for hospital equipment, by the authority and any



1932 program for the sale or lease of or the making of loans for such
1933 hospital equipment to any participating hospital institution.

1934 (e) "Cost," as applied to hospital facilities, means
1935 any and all costs of such hospital facilities and, without
1936 limiting the generality of the foregoing, shall include the
1937 following:

1938 (i) All costs of the establishment, demolition,
1939 site development of new and rehabilitated buildings,
1940 rehabilitation, reconstruction repair, erection, building,
1941 construction, remodeling, adding to and furnishing of any such
1942 hospital facilities and all costs incident or related thereto;

1943 (ii) The cost of acquiring any property interest
1944 in such hospital facilities including the purchase thereof, the
1945 cost of an option to purchase or the cost of any leasehold
1946 interest;

1947 (iii) The cost of architectural, engineering,
1948 legal and related services; the cost of the preparation of plans,
1949 specifications, studies, surveys and estimates of cost and of
1950 revenue; all other expenses necessary or incident to planning,
1951 providing or determining the need for or the feasibility and
1952 practicability of such hospital facilities or the acquisition
1953 thereof; and the cost of providing or establishing a reasonable
1954 reserve fund for the payment of principal of and interest on
1955 bonds;



1956 (iv) The cost of financing charges, including
1957 premiums or prepayment penalties, if any, and interest accrued
1958 prior to the acquisition and completion or refinancing of such
1959 hospital facilities and after such acquisition and completion or
1960 refinancing and start-up costs related to hospital facilities;

1961 (v) Any and all costs paid or incurred in
1962 connection with the financing of such hospital facilities,
1963 including out-of-pocket expenses, the cost of financing, legal,
1964 accounting, financial advisory and consulting fees, expenses and
1965 disbursement; the cost of any policy of insurance; the cost of
1966 printing, engraving and reproduction services; and the cost of the
1967 initial or acceptance fee of any trustee or paying agent;

1968 (vi) All direct or indirect costs of the authority
1969 incurred in connection with providing such hospital facilities,
1970 including, without limitation, reasonable sums to reimburse the
1971 authority for time spent by its agents or employees with respect
1972 to providing such hospital facilities and the financing thereof;

1973 (vii) Any and all costs paid or incurred for the
1974 administration of any program for the purchase or lease of or the
1975 making of loans for hospital facilities, by the authority and any
1976 program for the sale or lease of or the making of loans for such
1977 hospital facilities to any participating hospital institution; and

1978 (viii) The cost of providing for the payment or
1979 the making provision for the payment of, by the appropriate
1980 escrowing of monies or securities, the principal of and interest



1981 on which when due will be adequate to make such payment, any
1982 indebtedness encumbering the revenues or property of a
1983 participating hospital institution, whether such payment is to be
1984 effected by redemption of such indebtedness prior to maturity or
1985 not.

1986 (f) "Hospital equipment" means any personal property
1987 which is found and determined by the authority to be required or
1988 necessary or helpful for medical care, research, training or
1989 teaching, any one (1) or all, in hospital facilities located in
1990 the state, irrespective of whether such property is in existence
1991 at the time of, or is to be provided after the making of, such
1992 finding. * * *

1993 (g) "Hospital facility" or "hospital facilities" means
1994 buildings and structures of any and all types used or useful, in
1995 the discretion of the authority, for providing any types of care
1996 to the sick, wounded, infirmed, needy, mentally incompetent or
1997 elderly and shall include, without limiting the generality of the
1998 foregoing, out-patient clinics, laboratories, laundries, nurses',
1999 doctors' or interns' residences, administration buildings, office
2000 buildings, facilities for research directly involved with hospital
2001 care, maintenance, storage or utility facilities, parking lots,
2002 and garages and all necessary, useful, or related furnishings, and
2003 appurtenances and all lands necessary or convenient as a site for
2004 the foregoing.



2005 (h) "Participating hospital institution" or "hospital
2006 institution" means a public or private corporation, association,
2007 foundation, trust, cooperative, agency, body politic, or other
2008 person or organization which provides or operates or proposes to
2009 provide or operate hospital facilities not for profit, and which,
2010 pursuant to the provisions of this act, contracts with the
2011 authority for the financing or refinancing of the lease or other
2012 acquisition of hospital equipment or hospital facilities, or both.

2013 (i) "State" means the State of Mississippi.

2014 The use of singular terms herein shall also include the
2015 plural of such term and the use of a plural term herein shall also
2016 include the singular of such term unless the context clearly
2017 requires a different connotation.

2018 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is
2019 amended as follows:

2020 41-75-1. For the purpose of this chapter:

2021 (a) "Ambulatory surgical facility" means a publicly or
2022 privately owned institution that is primarily organized,
2023 constructed, renovated or otherwise established for the purpose of
2024 providing elective surgical treatment of "outpatients" whose
2025 recovery, under normal and routine circumstances, will not require
2026 "inpatient" care. The facility defined in this paragraph does not
2027 include the offices of private physicians or dentists, whether
2028 practicing individually or in groups, but does include
2029 organizations or facilities primarily engaged in that outpatient



2030 surgery, whether using the name "ambulatory surgical facility" or
2031 a similar or different name. That organization or facility, if in
2032 any manner considered to be operated or owned by a hospital or a
2033 hospital holding, leasing or management company, either for profit
2034 or not for profit, is required to comply with all licensing agency
2035 ambulatory surgical licensure standards governing a "hospital
2036 affiliated" facility as adopted under Section 41-9-1 et seq.,
2037 provided that the organization or facility does not intend to seek
2038 federal certification as an ambulatory surgical facility as
2039 provided for at 42 CFR, Parts 405 and 416. If the organization or
2040 facility is to be operated or owned by a hospital or a hospital
2041 holding, leasing or management company and intends to seek federal
2042 certification as an ambulatory facility, then the facility is
2043 considered to be "freestanding" and must comply with all licensing
2044 agency ambulatory surgical licensure standards governing a
2045 "freestanding" facility.

2046 If the organization or facility is to be owned or operated by
2047 an entity or person other than a hospital or hospital holding,
2048 leasing or management company, then the organization or facility
2049 must comply with all licensing agency ambulatory surgical facility
2050 standards governing a "freestanding" facility.

2051 (b) "Hospital affiliated" ambulatory surgical facility
2052 means a separate and distinct organized unit of a hospital or a
2053 building owned, leased, rented or utilized by a hospital and
2054 located in the same county in which the hospital is located, for



2055 the primary purpose of performing ambulatory surgery procedures.
2056 The facility is not required to be separately licensed under this
2057 chapter and may operate under the hospital's license in compliance
2058 with all applicable requirements of Section 41-9-1 et seq.

2059 (c) "Freestanding" ambulatory surgical facility means a
2060 separate and distinct facility or a separate and distinct
2061 organized unit of a hospital owned, leased, rented or utilized by
2062 a hospital or other persons for the primary purpose of performing
2063 ambulatory surgery procedures. The facility must be separately
2064 licensed as defined in this section and must comply with all
2065 licensing standards promulgated by the licensing agency under this
2066 chapter regarding a "freestanding" ambulatory surgical facility.
2067 Further, the facility must be a separate, identifiable entity and
2068 must be physically, administratively and financially independent
2069 and distinct from other operations of any other health facility,
2070 and shall maintain a separate organized medical and administrative
2071 staff. * * *

2072 (d) "Ambulatory surgery" means surgical procedures that
2073 are more complex than office procedures performed under local
2074 anesthesia, but less complex than major procedures requiring
2075 prolonged postoperative monitoring and hospital care to ensure
2076 safe recovery and desirable results. General anesthesia is used
2077 in most cases. The patient must arrive at the facility and expect
2078 to be discharged on the same day. Ambulatory surgery shall only



2079 be performed by physicians or dentists licensed to practice in the
2080 State of Mississippi.

2081 (e) "Abortion" means the use or prescription of any
2082 instrument, medicine, drug or any other substances or device to
2083 terminate the pregnancy of a woman known to be pregnant with an
2084 intention other than to increase the probability of a live birth,
2085 to preserve the life or health of the child after live birth or to
2086 remove a dead fetus. Abortion procedures after the first
2087 trimester shall only be performed at a Level I abortion facility
2088 or an ambulatory surgical facility or hospital licensed to perform
2089 that service.

2090 (f) "Abortion facility" means a facility operating
2091 substantially for the purpose of performing abortions and is a
2092 separate identifiable legal entity from any other health care
2093 facility. Abortions shall only be performed by physicians
2094 licensed to practice in the State of Mississippi. All physicians
2095 associated with the abortion facility must have admitting
2096 privileges at a local hospital and staff privileges to replace
2097 local hospital on-staff physicians. All physicians associated
2098 with an abortion facility must be board certified or eligible in
2099 obstetrics and gynecology, and a staff member trained in CPR shall
2100 always be present at the abortion facility when it is open. The
2101 term "abortion facility" includes physicians' offices that are
2102 used substantially for the purpose of performing abortions. An



2103 abortion facility operates substantially for the purpose of
2104 performing abortions if any of the following conditions are met:

2105 (i) The abortion facility is a provider for
2106 performing ten (10) or more abortion procedures per calendar month
2107 during any month of a calendar year, or one hundred (100) or more
2108 in a calendar year.

2109 (ii) The abortion facility, if operating less than
2110 twenty (20) days per calendar month, is a provider for performing
2111 ten (10) or more abortion procedures, or performing a number of
2112 abortion procedures that would be equivalent to ten (10)
2113 procedures per month, if the facility were operating twenty (20)
2114 or more days per calendar month, in any month of a calendar year.

2115 (iii) The abortion facility holds itself out to
2116 the public as an abortion provider by advertising by any public
2117 means, such as newspaper, telephone directory, magazine or
2118 electronic media, that it performs abortions.

2119 (iv) The facility applies to the licensing agency
2120 for licensure as an abortion facility.

2121 (g) "Licensing agency" means the State Department of
2122 Health.

2123 (h) "Operating" an abortion facility means that the
2124 facility is open for any period of time during a day and has on
2125 site at the facility or on call a physician licensed to practice
2126 in the State of Mississippi available to provide abortions.



2127 An abortion facility may apply to be licensed as a Level I
2128 facility or a Level II facility by the licensing agency. Level II
2129 abortion facilities shall be required to meet minimum standards
2130 for abortion facilities as established by the licensing agency.
2131 Level I abortion facilities shall be required to meet minimum
2132 standards for abortion facilities and minimum standards for
2133 ambulatory surgical facilities as established by the licensing
2134 agency.

2135 Any abortion facility that begins operation after June 30,
2136 1996, shall not be located within one thousand five hundred
2137 (1,500) feet from the property on which any church, school or
2138 kindergarten is located. An abortion facility shall not be in
2139 violation of this paragraph if it is in compliance with this
2140 paragraph on the date it begins operation and the property on
2141 which a church, school or kindergarten is located within one
2142 thousand five hundred (1,500) feet from the facility.

2143 (i) "Freestanding emergency room" is a facility open
2144 twenty-four (24) hours a day for the treatment of urgent and
2145 emergent medical conditions which is not located on a hospital
2146 campus. In order to be eligible for licensure under this chapter,
2147 the freestanding emergency room shall be located at least fifteen
2148 (15) miles from the nearest hospital-based emergency room in any
2149 rural community where the federal CMMS had previously designated a
2150 rural hospital as a critical access hospital and that designation
2151 has been revoked.



2152 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is
2153 amended as follows:

2154 41-75-5. No person * * * or other entity, acting severally
2155 or jointly with any other person or entity, shall establish,
2156 conduct, operate or maintain an ambulatory surgical facility or an
2157 abortion facility or a freestanding emergency room in this state
2158 without a license under this chapter.

2159 **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is
2160 amended as follows:

2161 41-75-9. Upon receipt of an application for license and the
2162 license fee, the licensing agency shall issue a license if the
2163 applicant and the institutional facilities meet the requirements
2164 established under this chapter and if the requirements of
2165 Section * * * 41-7-171 et seq. * * * have been met for abortion
2166 facilities. A license, unless suspended or revoked, shall be
2167 renewable annually upon payment of a renewal fee of Three Thousand
2168 Dollars (\$3,000.00), which shall be paid to the licensing agency,
2169 and upon filing by the licensee and approval by the licensing
2170 agency of an annual report upon such uniform dates and containing
2171 such information in such form as the licensing agency requires.
2172 Each license shall be issued only for the premises and person or
2173 persons named in the application and shall not be transferable or
2174 assignable. Licenses shall be posted in a conspicuous place on
2175 the licensed premises.



2176 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is
2177 amended as follows:

2178 41-75-25. Any person or persons or other entity or entities
2179 establishing, managing or operating an ambulatory surgical
2180 facility or conducting the business of an ambulatory surgical
2181 facility without the required license, or which otherwise violate
2182 any of the provisions of this chapter * * * or the rules,
2183 regulations or standards promulgated in furtherance of any law in
2184 which the * * * licensing agency has authority therefor shall be
2185 subject to the following penalties and sanctions * * *:

2186 (a) Revocation of the license of the ambulatory
2187 surgical facility or a designated section, component or service
2188 thereof; or

2189 (b) Nonlicensure of a specific or designated service
2190 offered by the ambulatory surgical facility.

2191 In addition, any violation of any provision of this chapter
2192 or any rules or regulations promulgated in furtherance of this
2193 chapter by intent, fraud, deceit, unlawful design, willful and/or
2194 deliberate misrepresentation, or by careless, negligent or
2195 incautious disregard for those statutes or rules and regulations,
2196 either by persons acting individually or in concert with others,
2197 is a misdemeanor and shall be punishable by a fine not to exceed
2198 One Thousand Dollars (\$1,000.00) for each such offense. Each day
2199 of continuing violation shall be considered a separate offense.
2200 The venue for prosecution of any such violation shall be in any



2201 county of the state in which any such violation, or portion
2202 thereof, occurred.

2203 **SECTION 18.** This act shall take effect and be in force from
2204 and after July 1, 2017.

