

By: Representative Brown

To: Medicaid

HOUSE BILL NO. 1174

1 AN ACT TO BE KNOWN AS THE MEDICAID RURAL COMMUNITY ACCESS TO
 2 HEALTH CARE ACT; TO AMEND SECTIONS 41-7-173, 41-7-185, 41-7-187,
 3 41-7-189, 41-7-190, 41-7-191, 41-7-193, 41-7-197, 41-7-201,
 4 41-7-202 AND 41-7-207, MISSISSIPPI CODE OF 1972, TO REVISE THE
 5 HEALTH CARE CERTIFICATE OF NEED LAW TO REMOVE HEALTH CARE SERVICES
 6 AND EQUIPMENT FROM THE REQUIREMENT FOR THE ISSUANCE OF A
 7 CERTIFICATE OF NEED, SO THAT ONLY CERTAIN HEALTH CARE FACILITIES
 8 WILL REQUIRE CERTIFICATE OF NEED REVIEW; TO REMOVE END-STAGE RENAL
 9 DISEASE FACILITIES AND AMBULATORY SURGICAL FACILITIES FROM THE
 10 REQUIREMENT FOR A CERTIFICATE OF NEED; TO AMEND SECTIONS 41-73-5,
 11 41-75-1, 41-75-5, 41-75-9 AND 41-75-25, MISSISSIPPI CODE OF 1972,
 12 TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known and may be cited as the
 15 Medicaid Rural Community Access to Health Care Act.

16 **SECTION 2.** Section 41-7-173, Mississippi Code of 1972, is
 17 amended as follows:

18 41-7-173. For the purposes of Section 41-7-171 et seq., the
 19 following words shall have the meanings ascribed herein, unless
 20 the context otherwise requires:

21 (a) "Affected person" means (i) the applicant; (ii) a
 22 person residing within the geographic area to be served by the
 23 applicant's proposal; (iii) a person who regularly uses health



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

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

41 * * * ~~_____ (c) (i) "Capital expenditure," when pertaining to~~
42 ~~defined major medical equipment, shall mean an expenditure which,~~
43 ~~under generally accepted accounting principles consistently~~
44 ~~applied, is not properly chargeable as an expense of operation and~~
45 ~~maintenance and which exceeds One Million Five Hundred Thousand~~
46 ~~Dollars (\$1,500,000.00).~~

47 ~~_____ (ii) "Capital expenditure," when pertaining to~~
48 ~~other than major medical equipment, shall mean any expenditure~~



49 ~~which under generally accepted accounting principles consistently~~
50 ~~applied is not properly chargeable as an expense of operation and~~
51 ~~maintenance and which exceeds, for clinical health services, as~~
52 ~~defined in * * * subsection paragraph (k) below, Five Million~~
53 ~~Dollars (\$5,000,000.00), adjusted for inflation as published by~~
54 ~~the State Department of Health or which exceeds, for nonclinical~~
55 ~~health services, as defined in * * * subsection paragraph (k)~~
56 ~~below, Ten Million Dollars (\$10,000,000.00), adjusted for~~
57 ~~inflation as published by the State Department of Health.~~

58 ~~————— (iii) A "capital expenditure" shall include the~~
59 ~~acquisition, whether by lease, sufferance, gift, devise, legacy,~~
60 ~~settlement of a trust or other means, of any facility or part~~
61 ~~thereof, or equipment for a facility, the expenditure for which~~
62 ~~would have been considered a capital expenditure if acquired by~~
63 ~~purchase. Transactions which are separated in time but are~~
64 ~~planned to be undertaken within twelve (12) months of each other~~
65 ~~and are components of an overall plan for meeting patient care~~
66 ~~objectives shall, for purposes of this definition, be viewed in~~
67 ~~their entirety without regard to their timing.~~

68 ~~————— (iv) In those instances where a health care~~
69 ~~facility or other provider of health services proposes to provide~~
70 ~~a service in which the capital expenditure for major medical~~
71 ~~equipment or other than major medical equipment or a combination~~
72 ~~of the two (2) may have been split between separate parties, the~~
73 ~~total capital expenditure required to provide the proposed service~~



74 ~~shall be considered in determining the necessity of certificate of~~
75 ~~need review and in determining the appropriate certificate of need~~
76 ~~review fee to be paid. The capital expenditure associated with~~
77 ~~facilities and equipment to provide services in Mississippi shall~~
78 ~~be considered regardless of where the capital expenditure was~~
79 ~~made, in state or out of state, and regardless of the domicile of~~
80 ~~the party making the capital expenditure, in state or out of~~
81 ~~state.~~

82 ~~----- (d) "Change of ownership" includes, but is not limited~~
83 ~~to, inter vivos gifts, purchases, transfers, lease arrangements,~~
84 ~~cash and/or stock transactions or other comparable arrangements~~
85 ~~whenever any person or entity acquires or controls a majority~~
86 ~~interest of an existing health care facility, and/or the change of~~
87 ~~ownership of major medical equipment, a health service, or an~~
88 ~~institutional health service. Changes of ownership from~~
89 ~~partnerships, single proprietorships or corporations to another~~
90 ~~form of ownership are specifically included. However, "change of~~
91 ~~ownership" shall not include any inherited interest acquired as a~~
92 ~~result of a testamentary instrument or under the laws of descent~~
93 ~~and distribution of the State of Mississippi.~~

94 (* * *ec) "Commencement of construction" means that
95 all of the following have been completed with respect to a
96 proposal or project proposing construction, renovating, remodeling
97 or alteration:



98 (i) A legally binding written contract has been
99 consummated by the proponent and a lawfully licensed contractor to
100 construct and/or complete the intent of the proposal within a
101 specified period of time in accordance with final architectural
102 plans which have been approved by the licensing authority of the
103 State Department of Health;

104 (ii) Any and all permits and/or approvals deemed
105 lawfully necessary by all authorities with responsibility for such
106 have been secured; and

107 (iii) Actual bona fide undertaking of the subject
108 proposal has commenced, and a progress payment of at least one
109 percent (1%) of the total cost price of the contract has been paid
110 to the contractor by the proponent, and the requirements of this
111 paragraph (e) have been certified to in writing by the State
112 Department of Health.

113 Force account expenditures, such as deposits, securities,
114 bonds, et cetera, may, in the discretion of the State Department
115 of Health, be excluded from any or all of the provisions of
116 defined commencement of construction.

117 (* * * ~~fd~~) "Consumer" means an individual who is not a
118 provider of health care as defined in paragraph (* * * ~~ej~~) of this
119 section.

120 * * * ~~_____ (g) "Develop," when used in connection with health~~
121 ~~services, means to undertake those activities which, on their~~
122 ~~completion, will result in the offering of a new institutional~~



123 ~~health service or the incurring of a financial obligation as~~
124 ~~defined under applicable state law in relation to the offering of~~
125 ~~such services.~~

126 (* * *he) "Health care facility" includes hospitals,
127 psychiatric hospitals, chemical dependency hospitals, skilled
128 nursing facilities, * * *~~end-stage renal disease (ESRD)~~
129 ~~facilities, including freestanding hemodialysis units,~~
130 intermediate care facilities, * * *~~ambulatory surgical facilities,~~
131 intermediate care facilities for the * * *~~mentally retarded~~
132 intellectually disabled, home health agencies, psychiatric
133 residential treatment facilities, pediatric skilled nursing
134 facilities, long-term care hospitals, comprehensive medical
135 rehabilitation facilities, including facilities owned or operated
136 by the state or a political subdivision or instrumentality of the
137 state, but does not include Christian Science sanatoriums operated
138 or listed and certified by the First Church of Christ, Scientist,
139 Boston, Massachusetts. This definition shall not apply to
140 facilities for the private practice, either independently or by
141 incorporated medical groups, of physicians, dentists or health
142 care professionals except where such facilities are an integral
143 part of an institutional health service. The various health care
144 facilities listed in this paragraph shall be defined as follows:

145 (i) "Hospital" means an institution which is
146 primarily engaged in providing to inpatients, by or under the
147 supervision of physicians, diagnostic services and therapeutic



148 services for medical diagnosis, treatment and care of injured,
149 disabled or sick persons, or rehabilitation services for the
150 rehabilitation of injured, disabled or sick persons. Such term
151 does not include psychiatric hospitals.

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

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

161 (iv) "Skilled nursing facility" means an
162 institution or a distinct part of an institution which is
163 primarily engaged in providing to inpatients skilled nursing care
164 and related services for patients who require medical or nursing
165 care or rehabilitation services for the rehabilitation of injured,
166 disabled or sick persons.

167 (v) * * *~~"End-stage renal disease (ESRD)-~~
168 ~~facilities"~~ means kidney disease treatment centers, which includes
169 ~~freestanding hemodialysis units and limited care facilities.~~ The
170 ~~term "limited care facility" generally refers to an~~
171 ~~off-hospital-premises facility, regardless of whether it is~~
172 ~~provider or nonprovider operated, which is engaged primarily in~~



173 ~~furnishing maintenance hemodialysis services to stabilized~~
174 ~~patients.~~ [Deleted]

175 (vi) "Intermediate care facility" means an
176 institution which provides, on a regular basis, health-related
177 care and services to individuals who do not require the degree of
178 care and treatment which a hospital or skilled nursing facility is
179 designed to provide, but who, because of their mental or physical
180 condition, require health-related care and services (above the
181 level of room and board).

182 (vii) * * * ~~"Ambulatory surgical facility" means a~~
183 ~~facility primarily organized or established for the purpose of~~
184 ~~performing surgery for outpatients and is a separate identifiable~~
185 ~~legal entity from any other health care facility. Such term does~~
186 ~~not include the offices of private physicians or dentists, whether~~
187 ~~for individual or group practice, and does not include any~~
188 ~~abortion facility as defined in Section 41-75-1(f).~~ [Deleted]

189 (viii) "Intermediate care facility for
190 the * * * ~~mentally retarded~~ intellectually disabled" means an
191 intermediate care facility that provides health or rehabilitative
192 services in a planned program of activities to persons with an
193 intellectual disability, also including, but not limited to,
194 cerebral palsy and other conditions covered by the Federal
195 Developmentally Disabled Assistance and Bill of Rights Act, Public
196 Law 94-103.



197 (ix) "Home health agency" means a public or
198 privately owned agency or organization, or a subdivision of such
199 an agency or organization, properly authorized to conduct business
200 in Mississippi, which is primarily engaged in providing to
201 individuals at the written direction of a licensed physician, in
202 the individual's place of residence, skilled nursing services
203 provided by or under the supervision of a registered nurse
204 licensed to practice in Mississippi, and one or more of the
205 following services or items:

- 206 1. Physical, occupational or speech therapy;
- 207 2. Medical social services;
- 208 3. Part-time or intermittent services of a
209 home health aide;
- 210 4. Other services as approved by the
211 licensing agency for home health agencies;
- 212 5. Medical supplies, other than drugs and
213 biologicals, and the use of medical appliances; or
- 214 6. Medical services provided by an intern or
215 resident-in-training at a hospital under a teaching program of
216 such hospital.

217 Further, all skilled nursing services and those services
218 listed in items 1 through 4 of this subparagraph (ix) must be
219 provided directly by the licensed home health agency. For
220 purposes of this subparagraph, "directly" means either through an



221 agency employee or by an arrangement with another individual not
222 defined as a health care facility.

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

226 (x) "Psychiatric residential treatment facility"
227 means any nonhospital establishment with permanent licensed
228 facilities which provides a twenty-four-hour program of care by
229 qualified therapists, including, but not limited to, duly licensed
230 mental health professionals, psychiatrists, psychologists,
231 psychotherapists and licensed certified social workers, for
232 emotionally disturbed children and adolescents referred to such
233 facility by a court, local school district or by the Department of
234 Human Services, who are not in an acute phase of illness requiring
235 the services of a psychiatric hospital, and are in need of such
236 restorative treatment services. For purposes of this
237 subparagraph, the term "emotionally disturbed" means a condition
238 exhibiting one or more of the following characteristics over a
239 long period of time and to a marked degree, which adversely
240 affects educational performance:

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

243 2. An inability to build or maintain
244 satisfactory relationships with peers and teachers;



245 3. Inappropriate types of behavior or
246 feelings under normal circumstances;
247 4. A general pervasive mood of unhappiness or
248 depression; or
249 5. A tendency to develop physical symptoms or
250 fears associated with personal or school problems. An
251 establishment furnishing primarily domiciliary care is not within
252 this definition.

253 (xi) "Pediatric skilled nursing facility" means an
254 institution or a distinct part of an institution that is primarily
255 engaged in providing to inpatients skilled nursing care and
256 related services for persons under twenty-one (21) years of age
257 who require medical or nursing care or rehabilitation services for
258 the rehabilitation of injured, disabled or sick persons.

259 (xii) "Long-term care hospital" means a
260 freestanding, Medicare-certified hospital that has an average
261 length of inpatient stay greater than twenty-five (25) days, which
262 is primarily engaged in providing chronic or long-term medical
263 care to patients who do not require more than three (3) hours of
264 rehabilitation or comprehensive rehabilitation per day, and has a
265 transfer agreement with an acute care medical center and a
266 comprehensive medical rehabilitation facility. Long-term care
267 hospitals shall not use rehabilitation, comprehensive medical
268 rehabilitation, medical rehabilitation, sub-acute rehabilitation,



269 nursing home, skilled nursing facility or sub-acute care facility
270 in association with its name.

271 (xiii) "Comprehensive medical rehabilitation
272 facility" means a hospital or hospital unit that is licensed
273 and/or certified as a comprehensive medical rehabilitation
274 facility which provides specialized programs that are accredited
275 by the Commission on Accreditation of Rehabilitation Facilities
276 and supervised by a physician board certified or board eligible in
277 physiatry or other doctor of medicine or osteopathy with at least
278 two (2) years of training in the medical direction of a
279 comprehensive rehabilitation program that:

280 1. Includes evaluation and treatment of
281 individuals with physical disabilities;

282 2. Emphasizes education and training of
283 individuals with disabilities;

284 3. Incorporates at least the following core
285 disciplines:

286 * * *~~(i)~~a. Physical Therapy;

287 * * *~~(ii)~~b. Occupational Therapy;

288 * * *~~(iii)~~c. Speech and Language

289 Therapy;

290 * * *~~(iv)~~d. Rehabilitation Nursing; and

291 4. Incorporates at least three (3) of the
292 following disciplines:

293 * * *~~(i)~~a. Psychology;



294 * * *~~(ii)~~b. Audiology;
295 * * *~~(iii)~~c. Respiratory Therapy;
296 * * *~~(iv)~~d. Therapeutic Recreation;
297 * * *~~(v)~~e. Orthotics;
298 * * *~~(vi)~~f. Prosthetics;
299 * * *~~(vii)~~g. Special Education;
300 * * *~~(viii)~~h. Vocational
301 Rehabilitation;
302 * * *~~(ix)~~i. Psychotherapy;
303 * * *~~(x)~~j. Social Work;
304 * * *~~(xi)~~k. Rehabilitation Engineering.

305 These specialized programs include, but are not limited to:
306 spinal cord injury programs, head injury programs and infant and
307 early childhood development programs.

308 (* * *~~i~~f) "Health maintenance organization" or "HMO"
309 means a public or private organization organized under the laws of
310 this state or the federal government which:

311 (i) Provides or otherwise makes available to
312 enrolled participants health care services, including
313 substantially the following basic health care services: usual
314 physician services, hospitalization, laboratory, x-ray, emergency
315 and preventive services, and out-of-area coverage;

316 (ii) Is compensated (except for copayments) for
317 the provision of the basic health care services listed in



318 subparagraph (i) of this paragraph to enrolled participants on a
319 predetermined basis; and

320 (iii) Provides physician services primarily:

321 1. Directly through physicians who are either
322 employees or partners of such organization; or

323 2. Through arrangements with individual
324 physicians or one or more groups of physicians (organized on a
325 group practice or individual practice basis).

326 (* * * ~~g~~) "Health service area" means a geographic
327 area of the state designated in the State Health Plan as the area
328 to be used in planning for specified health care
329 facilities * * * ~~and services~~ and to be used when considering
330 certificate of need applications to provide health care
331 facilities * * * ~~and services~~.

332 * * * ~~(k) "Health services" means clinically related~~
333 ~~(i.e., diagnostic, treatment or rehabilitative) services and~~
334 ~~includes alcohol, drug abuse, mental health and home health care~~
335 ~~services. "Clinical health services" shall only include those~~
336 ~~activities which contemplate any change in the existing bed~~
337 ~~complement of any health care facility through the addition or~~
338 ~~conversion of any beds, under Section 41-7-191(1)(c) or propose to~~
339 ~~offer any health services if those services have not been provided~~
340 ~~on a regular basis by the proposed provider of such services~~
341 ~~within the period of twelve (12) months prior to the time such~~
342 ~~services would be offered, under Section 41-7-191(1)(d).~~



343 ~~"Nonclinical health services" shall be all other services which do~~
344 ~~not involve any change in the existing bed complement or offering~~
345 ~~health services as described above.~~

346 ~~————— (l) "Institutional health services" shall mean health~~
347 ~~services provided in or through health care facilities and shall~~
348 ~~include the entities in or through which such services are~~
349 ~~provided.~~

350 ~~————— (m) "Major medical equipment" means medical equipment~~
351 ~~designed for providing medical or any health-related service which~~
352 ~~costs in excess of One Million Five Hundred Thousand Dollars~~
353 ~~(\$1,500,000.00). However, this definition shall not be applicable~~
354 ~~to clinical laboratories if they are determined by the State~~
355 ~~Department of Health to be independent of any physician's office,~~
356 ~~hospital or other health care facility or otherwise not so defined~~
357 ~~by federal or state law, or rules and regulations promulgated~~
358 ~~thereunder.~~

359 ~~(* * * ah) "State Department of Health" or "department"~~
360 ~~shall mean the state agency created under Section 41-3-15 * * *₇~~
361 ~~which shall be considered to be the State Health Planning and~~
362 ~~Development Agency, as defined in paragraph (u) of this section.~~

363 * * *

364 ~~————— (o) "Offer," when used in connection with health~~
365 ~~services, means that it has been determined by the State~~
366 ~~Department of Health that the health care facility is capable of~~
367 ~~providing specified health services.~~



368 (* * *pi) "Person" means an individual, a trust or
369 estate, partnership, corporation (including associations,
370 joint-stock companies and insurance companies), the state or a
371 political subdivision or instrumentality of the state.

372 (* * *qj) "Provider" shall mean any person who is a
373 provider or representative of a provider of health
374 care * * *~~services~~ requiring a certificate of need under Section
375 41-7-171 et seq., or who has any financial or indirect interest in
376 any provider of * * *~~services~~ health care.

377 * * *~~_____ (r) "Radiation therapy services" means the~~
378 ~~treatment of cancer and other diseases using ionizing radiation of~~
379 ~~either high energy photons (x-rays or gamma rays) or charged~~
380 ~~particles (electrons, protons or heavy nuclei). However, for~~
381 ~~purposes of a certificate of need, radiation therapy services~~
382 ~~shall not include low energy, superficial, external beam x-ray~~
383 ~~treatment of superficial skin lesions.~~

384 (* * *sk) "Secretary" means the Secretary of Health
385 and Human Services, and any officer or employee of the Department
386 of Health and Human Services to whom the authority involved has
387 been delegated.

388 (* * *tl) "State Health Plan" means the sole and
389 official statewide health plan for Mississippi * * *~~which~~ that
390 identifies priority state health needs and establishes standards
391 and criteria for health-related activities * * *~~which~~ that require
392 certificate of need review in compliance with Section 41-7-191.



393 * * * ~~(u) "State Health Planning and Development Agency"~~
394 ~~means the agency of state government designated to perform health~~
395 ~~planning and resource development programs for the State of~~
396 ~~Mississippi.~~

397 **SECTION 3.** Section 41-7-185, Mississippi Code of 1972, is
398 amended as follows:

399 41-7-185. In carrying out its functions under Section
400 41-7-171 et seq., the State Department of Health is * * * ~~hereby~~
401 empowered to:

402 (a) Make applications for and accept funds from the
403 secretary and other federal and state agencies and to receive and
404 administer such other funds for the planning or provision of
405 health facilities or health care as are appropriate to the
406 accomplishment of the purposes of Section 41-7-171 et seq. * * * ~~;~~
407 and to contract with the secretary to accept funds to administer
408 planning activities on the community, regional or state level;

409 (b) With the approval of the secretary, delegate to or
410 contract with any mutually agreeable department, division or
411 agency of the state, the federal government, or any political
412 subdivision of either, or any private corporation, organization or
413 association chartered by the Secretary of State of Mississippi,
414 authority for administering any programs, duties or functions
415 provided for in Section 41-7-171 * * * ~~;~~ et seq.;

416 (c) Prescribe and promulgate such reasonable rules and
417 regulations as may be necessary to the implementation of the



418 purposes of Section 41-7-171 * * *~~7~~ et seq., complying with
419 Section * * *~~25-43-1~~, 25-43-1.101 et seq.;

420 (d) Require providers of * * *~~institutional health~~
421 ~~services~~ and home health care services provided through a home
422 health agency and any other provider of health care requiring a
423 certificate of need to submit or make available statistical
424 information or such other information requested by the State
425 Department of Health, but not information that would constitute an
426 unwarranted invasion of the personal privacy of any individual
427 person or place the provider in jeopardy of legal action by a
428 third party;

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

435 (f) In its discretion, contract with the secretary, or
436 terminate any such contract, for the administration of the
437 provisions, programs, duties and functions of Section 1122 of
438 Public Law 92-603; but the State Department of Health shall not be
439 relieved of matters of accountability, obligation or
440 responsibility that accrued to the department by virtue of prior
441 contracts and/or statutes;



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

446 **SECTION 4.** Section 41-7-187, Mississippi Code of 1972, is
447 amended as follows:

448 41-7-187. The State Department of Health is * * *~~hereby~~
449 authorized to develop and implement a statewide health certificate
450 of need program. The State Department of Health is authorized and
451 empowered to adopt by rule and regulation:

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

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

456 * * * ~~_____ (c) Standards to determine when a change of
457 ownership has occurred or will occur; and~~

458 (* * * dc) Review procedures for conducting reviews of
459 applications for certificates of need.

460 **SECTION 5.** Section 41-7-189, Mississippi Code of 1972, is
461 amended as follows:

462 41-7-189. (1) * * * ~~Prior to~~ Before review of * * * ~~new~~
463 ~~institutional health services or other~~ proposals requiring a
464 certificate of need, the State Department of Health shall
465 disseminate to all health care facilities and health maintenance
466 organizations within the state, and shall publish in one or more



467 newspapers of general circulation in the state, a description of
468 the scope of coverage of the * * *~~commission's~~ certificate of need
469 program. Whenever the scope of such coverage is revised, the
470 State Department of Health shall disseminate and publish a revised
471 description thereof in like manner.

472 (2) Selected statistical data and information obtained by
473 the State Department of Health as the licensing agency for health
474 care facilities requiring licensure by the state and as the agency
475 which provides certification for the Medicaid and/or Medicare
476 program, may be utilized by the department in performing the
477 statutory duties imposed upon it by any law over which it has
478 authority, and regulations necessarily promulgated for such
479 facilities to participate in the Medicaid and/or Medicare
480 program; * * *~~provided,~~ however, * * *~~that~~ the names of individual
481 patients shall not be revealed except in hearings or judicial
482 proceedings regarding questions of licensure.

483 **SECTION 6.** Section 41-7-190, Mississippi Code of 1972, is
484 amended as follows:

485 41-7-190. No corporation, foreign or domestic, partnership,
486 individual(s) or association of such entities or of persons
487 whatsoever, or any combination thereof, shall own, possess or
488 exercise control over, in any manner, more than twenty percent
489 (20%) of the beds in health care facilities defined in Section
490 41-7-173(* * *~~he~~) (iv) and (vi) in the defined health service area
491 of the State of Mississippi.



492 Health care facilities owned, operated or under control of
493 the United States government, the state government or political
494 subdivision of either are excluded from the limitation of this
495 section.

496 **SECTION 7.** Section 41-7-191, Mississippi Code of 1972, is
497 amended as follows:

498 41-7-191. (1) No person shall engage in any of the
499 following activities without obtaining the required certificate of
500 need:

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

505 (b) The relocation of a health care facility or portion
506 thereof, * * *~~or major medical equipment,~~ unless * * *such the
507 relocation of * * *a the health care facility or portion
508 thereof * * *,~~or major medical equipment, which does not involve~~
509 ~~a capital expenditure by or on behalf of a health care facility,~~
510 is within five thousand two hundred eighty (5,280) feet from the
511 main entrance of the health care facility;

512 (c) Any change in the existing bed complement of any
513 health care facility through the addition or conversion of any
514 beds * * *~~or the alteration, modernizing or refurbishing of any~~
515 ~~unit or department in which the beds may be located;~~ however, if a
516 health care facility has voluntarily delicensed some of its



517 existing bed complement, it may later relicense some or all of its
518 delicensed beds without the necessity of having to acquire a
519 certificate of need. The State Department of Health shall
520 maintain a record of the delicensing health care facility and its
521 voluntarily delicensed beds and continue counting those beds as
522 part of the state's total bed count for health care planning
523 purposes. If a health care facility that has voluntarily
524 delicensed some of its beds later desires to relicense some or all
525 of its voluntarily delicensed beds, it shall notify the State
526 Department of Health of its intent to increase the number of its
527 licensed beds. The State Department of Health shall survey the
528 health care facility within thirty (30) days of that notice and,
529 if appropriate, issue the health care facility a new license
530 reflecting the new contingent of beds. However, in no event may a
531 health care facility that has voluntarily delicensed some of its
532 beds be reissued a license to operate beds in excess of its bed
533 count before the voluntary delicensure of some of its beds without
534 seeking certificate of need approval;

535 ~~* * * (d) Offering of the following health services if~~
536 ~~those services have not been provided on a regular basis by the~~
537 ~~proposed provider of such services within the period of twelve~~
538 ~~(12) months prior to the time such services would be offered:~~

539 ~~(i) Open-heart surgery services;~~

540 ~~(ii) Cardiac catheterization services;~~



541 ~~_____ (iii) Comprehensive inpatient rehabilitation~~
542 ~~services;~~
543 ~~_____ (iv) Licensed psychiatric services;~~
544 ~~_____ (v) Licensed chemical dependency services;~~
545 ~~_____ (vi) Radiation therapy services;~~
546 ~~_____ (vii) Diagnostic imaging services of an invasive~~
547 ~~nature, i.e. invasive digital angiography;~~
548 ~~_____ (viii) Nursing home care as defined in~~
549 ~~subparagraphs (iv), (vi) and (viii) of Section 41-7-173(h);~~
550 ~~_____ (ix) Home health services;~~
551 ~~_____ (x) Swing-bed services;~~
552 ~~_____ (xi) Ambulatory surgical services;~~
553 ~~_____ (xii) Magnetic resonance imaging services;~~
554 ~~_____ (xiii) [Deleted]~~
555 ~~_____ (xiv) Long-term care hospital services;~~
556 ~~_____ (xv) Positron emission tomography (PET) services;~~
557 ~~_____ (c) The relocation of one or more health services from~~
558 ~~one physical facility or site to another physical facility or~~
559 ~~site, unless such relocation, which does not involve a capital~~
560 ~~expenditure by or on behalf of a health care facility, (i) is to a~~
561 ~~physical facility or site within five thousand two hundred eighty~~
562 ~~(5,280) feet from the main entrance of the health care facility~~
563 ~~where the health care service is located, or (ii) is the result of~~
564 ~~an order of a court of appropriate jurisdiction or a result of~~
565 ~~pending litigation in such court, or by order of the State~~



566 ~~Department of Health, or by order of any other agency or legal~~
567 ~~entity of the state, the federal government, or any political~~
568 ~~subdivision of either, whose order is also approved by the State~~
569 ~~Department of Health;~~

570 ~~————— (f) The acquisition or otherwise control of any major~~
571 ~~medical equipment for the provision of medical services; however,~~
572 ~~(i) the acquisition of any major medical equipment used only for~~
573 ~~research purposes, and (ii) the acquisition of major medical~~
574 ~~equipment to replace medical equipment for which a facility is~~
575 ~~already providing medical services and for which the State~~
576 ~~Department of Health has been notified before the date of such~~
577 ~~acquisition shall be exempt from this paragraph; an acquisition~~
578 ~~for less than fair market value must be reviewed, if the~~
579 ~~acquisition at fair market value would be subject to review;~~

580 ~~————— (g) Changes of ownership of existing health care~~
581 ~~facilities in which a notice of intent is not filed with the State~~
582 ~~Department of Health at least thirty (30) days prior to the date~~
583 ~~such change of ownership occurs, or a change in services or bed~~
584 ~~capacity as prescribed in paragraph (c) or (d) of this subsection~~
585 ~~as a result of the change of ownership; an acquisition for less~~
586 ~~than fair market value must be reviewed, if the acquisition at~~
587 ~~fair market value would be subject to review;~~

588 ~~————— (h) The change of ownership of any health care facility~~
589 ~~defined in subparagraphs (iv), (vi) and (viii) of Section~~
590 ~~41-7-173(h), in which a notice of intent as described in paragraph~~



591 ~~(g) has not been filed and if the Executive Director, Division of~~
592 ~~Medicaid, Office of the Governor, has not certified in writing~~
593 ~~that there will be no increase in allowable costs to Medicaid from~~
594 ~~reevaluation of the assets or from increased interest and~~
595 ~~depreciation as a result of the proposed change of ownership;~~

596 ~~————— (i) Any activity described in paragraphs (a) through~~
597 ~~(h) if undertaken by any person if that same activity would~~
598 ~~require certificate of need approval if undertaken by a health~~
599 ~~care facility;~~

600 ~~————— (j) Any capital expenditure or deferred capital~~
601 ~~expenditure by or on behalf of a health care facility not covered~~
602 ~~by paragraphs (a) through (h);~~

603 (* * *kd) The contracting of a health care facility as
604 defined in subparagraphs (i) through (viii) of Section
605 41-7-173(* * *he) to establish a home office, subunit, or branch
606 office in the space operated as a health care facility through a
607 formal arrangement with an existing health care facility as
608 defined in subparagraph (ix) of Section 41-7-173(* * *he);

609 (* * *le) The replacement or relocation of a health
610 care facility designated as a critical access hospital shall be
611 exempt from subsection (1) of this section so long as the critical
612 access hospital complies with all applicable federal law and
613 regulations regarding such replacement or relocation;

614 (* * *mf) Reopening a health care facility that has
615 ceased to operate for a period of sixty (60) months or more, which



616 reopening requires a certificate of need for the establishment of
617 a new health care facility.

618 (2) The State Department of Health shall not grant approval
619 for or issue a certificate of need to any person proposing the new
620 construction of, addition to, or expansion of any health care
621 facility defined in subparagraphs (iv) (skilled nursing facility)
622 and (vi) (intermediate care facility) of Section
623 41-7-173(* * *he) or the conversion of vacant hospital beds to
624 provide skilled or intermediate nursing home care, except as
625 hereinafter authorized:

626 (a) The department may issue a certificate of need to
627 any person proposing the new construction of any health care
628 facility defined in subparagraphs (iv) and (vi) of Section
629 41-7-173(h) as part of a life care retirement facility, in any
630 county bordering on the Gulf of Mexico in which is located a
631 National Aeronautics and Space Administration facility, not to
632 exceed forty (40) beds. From and after July 1, 1999, there shall
633 be no prohibition or restrictions on participation in the Medicaid
634 program (Section 43-13-101 et seq.) for the beds in the health
635 care facility that were authorized under this paragraph (a).

636 (b) The department may issue certificates of need in
637 Harrison County to provide skilled nursing home care for
638 Alzheimer's disease patients and other patients, not to exceed one
639 hundred fifty (150) beds. From and after July 1, 1999, there
640 shall be no prohibition or restrictions on participation in the



641 Medicaid program (Section 43-13-101 et seq.) for the beds in the
642 nursing facilities that were authorized under this paragraph (b).

643 (c) The department may issue a certificate of need for
644 the addition to or expansion of any skilled nursing facility that
645 is part of an existing continuing care retirement community
646 located in Madison County, provided that the recipient of the
647 certificate of need agrees in writing that the skilled nursing
648 facility will not at any time participate in the Medicaid program
649 (Section 43-13-101 et seq.) or admit or keep any patients in the
650 skilled nursing facility who are participating in the Medicaid
651 program. This written agreement by the recipient of the
652 certificate of need shall be fully binding on any subsequent owner
653 of the skilled nursing facility, if the ownership of the facility
654 is transferred at any time after the issuance of the certificate
655 of need. Agreement that the skilled nursing facility will not
656 participate in the Medicaid program shall be a condition of the
657 issuance of a certificate of need to any person under this
658 paragraph (c), and if such skilled nursing facility at any time
659 after the issuance of the certificate of need, regardless of the
660 ownership of the facility, participates in the Medicaid program or
661 admits or keeps any patients in the facility who are participating
662 in the Medicaid program, the State Department of Health shall
663 revoke the certificate of need, if it is still outstanding, and
664 shall deny or revoke the license of the skilled nursing facility,
665 at the time that the department determines, after a hearing



666 complying with due process, that the facility has failed to comply
667 with any of the conditions upon which the certificate of need was
668 issued, as provided in this paragraph and in the written agreement
669 by the recipient of the certificate of need. The total number of
670 beds that may be authorized under the authority of this paragraph
671 (c) shall not exceed sixty (60) beds.

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

680 (e) The State Department of Health may issue a
681 certificate of need for the construction of a nursing facility or
682 the conversion of beds to nursing facility beds at a personal care
683 facility for the elderly in Lowndes County that is owned and
684 operated by a Mississippi nonprofit corporation, not to exceed
685 sixty (60) beds. From and after July 1, 1999, there shall be no
686 prohibition or restrictions on participation in the Medicaid
687 program (Section 43-13-101 et seq.) for the beds in the nursing
688 facility that were authorized under this paragraph (e).

689 (f) The State Department of Health may issue a
690 certificate of need for conversion of a county hospital facility



691 in Itawamba County to a nursing facility, not to exceed sixty (60)
692 beds, including any necessary construction, renovation or
693 expansion. From and after July 1, 1999, there shall be no
694 prohibition or restrictions on participation in the Medicaid
695 program (Section 43-13-101 et seq.) for the beds in the nursing
696 facility that were authorized under this paragraph (f).

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

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

713 (i) The department may issue a certificate of need for
714 the new construction of a skilled nursing facility in Leake
715 County, provided that the recipient of the certificate of need



716 agrees in writing that the skilled nursing facility will not at
717 any time participate in the Medicaid program (Section 43-13-101 et
718 seq.) or admit or keep any patients in the skilled nursing
719 facility who are participating in the Medicaid program. This
720 written agreement by the recipient of the certificate of need
721 shall be fully binding on any subsequent owner of the skilled
722 nursing facility, if the ownership of the facility is transferred
723 at any time after the issuance of the certificate of need.
724 Agreement that the skilled nursing facility will not participate
725 in the Medicaid program shall be a condition of the issuance of a
726 certificate of need to any person under this paragraph (i), and if
727 such skilled nursing facility at any time after the issuance of
728 the certificate of need, regardless of the ownership of the
729 facility, participates in the Medicaid program or admits or keeps
730 any patients in the facility who are participating in the Medicaid
731 program, the State Department of Health shall revoke the
732 certificate of need, if it is still outstanding, and shall deny or
733 revoke the license of the skilled nursing facility, at the time
734 that the department determines, after a hearing complying with due
735 process, that the facility has failed to comply with any of the
736 conditions upon which the certificate of need was issued, as
737 provided in this paragraph and in the written agreement by the
738 recipient of the certificate of need. The provision of Section
739 41-7-193(1) regarding substantial compliance of the projection of
740 need as reported in the current State Health Plan is waived for



741 the purposes of this paragraph. The total number of nursing
742 facility beds that may be authorized by any certificate of need
743 issued under this paragraph (i) shall not exceed sixty (60) beds.
744 If the skilled nursing facility authorized by the certificate of
745 need issued under this paragraph is not constructed and fully
746 operational within eighteen (18) months after July 1, 1994, the
747 State Department of Health, after a hearing complying with due
748 process, shall revoke the certificate of need, if it is still
749 outstanding, and shall not issue a license for the skilled nursing
750 facility at any time after the expiration of the eighteen-month
751 period.

752 (j) The department may issue certificates of need to
753 allow any existing freestanding long-term care facility in
754 Tishomingo County and Hancock County that on July 1, 1995, is
755 licensed with fewer than sixty (60) beds. For the purposes of
756 this paragraph (j), the provisions of Section 41-7-193(1)
757 requiring substantial compliance with the projection of need as
758 reported in the current State Health Plan are waived. From and
759 after July 1, 1999, there shall be no prohibition or restrictions
760 on participation in the Medicaid program (Section 43-13-101 et
761 seq.) for the beds in the long-term care facilities that were
762 authorized under this paragraph (j).

763 (k) The department may issue a certificate of need for
764 the construction of a nursing facility at a continuing care
765 retirement community in Lowndes County. The total number of beds



766 that may be authorized under the authority of this paragraph (k)
767 shall not exceed sixty (60) beds. From and after July 1, 2001,
768 the prohibition on the facility participating in the Medicaid
769 program (Section 43-13-101 et seq.) that was a condition of
770 issuance of the certificate of need under this paragraph (k) shall
771 be revised as follows: The nursing facility may participate in
772 the Medicaid program from and after July 1, 2001, if the owner of
773 the facility on July 1, 2001, agrees in writing that no more than
774 thirty (30) of the beds at the facility will be certified for
775 participation in the Medicaid program, and that no claim will be
776 submitted for Medicaid reimbursement for more than thirty (30)
777 patients in the facility in any month or for any patient in the
778 facility who is in a bed that is not Medicaid-certified. This
779 written agreement by the owner of the facility shall be a
780 condition of licensure of the facility, and the agreement shall be
781 fully binding on any subsequent owner of the facility if the
782 ownership of the facility is transferred at any time after July 1,
783 2001. After this written agreement is executed, the Division of
784 Medicaid and the State Department of Health shall not certify more
785 than thirty (30) of the beds in the facility for participation in
786 the Medicaid program. If the facility violates the terms of the
787 written agreement by admitting or keeping in the facility on a
788 regular or continuing basis more than thirty (30) patients who are
789 participating in the Medicaid program, the State Department of
790 Health shall revoke the license of the facility, at the time that



791 the department determines, after a hearing complying with due
792 process, that the facility has violated the written agreement.

793 (l) Provided that funds are specifically appropriated
794 therefor by the Legislature, the department may issue a
795 certificate of need to a rehabilitation hospital in Hinds County
796 for the construction of a sixty-bed long-term care nursing
797 facility dedicated to the care and treatment of persons with
798 severe disabilities including persons with spinal cord and
799 closed-head injuries and ventilator dependent patients. The
800 provisions of Section 41-7-193(1) regarding substantial compliance
801 with projection of need as reported in the current State Health
802 Plan are waived for the purpose of this paragraph.

803 (m) The State Department of Health may issue a
804 certificate of need to a county-owned hospital in the Second
805 Judicial District of Panola County for the conversion of not more
806 than seventy-two (72) hospital beds to nursing facility beds,
807 provided that the recipient of the certificate of need agrees in
808 writing that none of the beds at the nursing facility will be
809 certified for participation in the Medicaid program (Section
810 43-13-101 et seq.), and that no claim will be submitted for
811 Medicaid reimbursement in the nursing facility in any day or for
812 any patient in the nursing facility. This written agreement by
813 the recipient of the certificate of need shall be a condition of
814 the issuance of the certificate of need under this paragraph, and
815 the agreement shall be fully binding on any subsequent owner of



816 the nursing facility if the ownership of the nursing facility is
817 transferred at any time after the issuance of the certificate of
818 need. After this written agreement is executed, the Division of
819 Medicaid and the State Department of Health shall not certify any
820 of the beds in the nursing facility for participation in the
821 Medicaid program. If the nursing facility violates the terms of
822 the written agreement by admitting or keeping in the nursing
823 facility on a regular or continuing basis any patients who are
824 participating in the Medicaid program, the State Department of
825 Health shall revoke the license of the nursing facility, at the
826 time that the department determines, after a hearing complying
827 with due process, that the nursing facility has violated the
828 condition upon which the certificate of need was issued, as
829 provided in this paragraph and in the written agreement. If the
830 certificate of need authorized under this paragraph is not issued
831 within twelve (12) months after July 1, 2001, the department shall
832 deny the application for the certificate of need and shall not
833 issue the certificate of need at any time after the twelve-month
834 period, unless the issuance is contested. If the certificate of
835 need is issued and substantial construction of the nursing
836 facility beds has not commenced within eighteen (18) months after
837 July 1, 2001, the State Department of Health, after a hearing
838 complying with due process, shall revoke the certificate of need
839 if it is still outstanding, and the department shall not issue a
840 license for the nursing facility at any time after the



841 eighteen-month period. However, if the issuance of the
842 certificate of need is contested, the department shall require
843 substantial construction of the nursing facility beds within six
844 (6) months after final adjudication on the issuance of the
845 certificate of need.

846 (n) The department may issue a certificate of need for
847 the new construction, addition or conversion of skilled nursing
848 facility beds in Madison County, provided that the recipient of
849 the certificate of need agrees in writing that the skilled nursing
850 facility will not at any time participate in the Medicaid program
851 (Section 43-13-101 et seq.) or admit or keep any patients in the
852 skilled nursing facility who are participating in the Medicaid
853 program. This written agreement by the recipient of the
854 certificate of need shall be fully binding on any subsequent owner
855 of the skilled nursing facility, if the ownership of the facility
856 is transferred at any time after the issuance of the certificate
857 of need. Agreement that the skilled nursing facility will not
858 participate in the Medicaid program shall be a condition of the
859 issuance of a certificate of need to any person under this
860 paragraph (n), and if such skilled nursing facility at any time
861 after the issuance of the certificate of need, regardless of the
862 ownership of the facility, participates in the Medicaid program or
863 admits or keeps any patients in the facility who are participating
864 in the Medicaid program, the State Department of Health shall
865 revoke the certificate of need, if it is still outstanding, and



866 shall deny or revoke the license of the skilled nursing facility,
867 at the time that the department determines, after a hearing
868 complying with due process, that the facility has failed to comply
869 with any of the conditions upon which the certificate of need was
870 issued, as provided in this paragraph and in the written agreement
871 by the recipient of the certificate of need. The total number of
872 nursing facility beds that may be authorized by any certificate of
873 need issued under this paragraph (n) shall not exceed sixty (60)
874 beds. If the certificate of need authorized under this paragraph
875 is not issued within twelve (12) months after July 1, 1998, the
876 department shall deny the application for the certificate of need
877 and shall not issue the certificate of need at any time after the
878 twelve-month period, unless the issuance is contested. If the
879 certificate of need is issued and substantial construction of the
880 nursing facility beds has not commenced within eighteen (18)
881 months after July 1, 1998, the State Department of Health, after a
882 hearing complying with due process, shall revoke the certificate
883 of need if it is still outstanding, and the department shall not
884 issue a license for the nursing facility at any time after the
885 eighteen-month period. However, if the issuance of the
886 certificate of need is contested, the department shall require
887 substantial construction of the nursing facility beds within six
888 (6) months after final adjudication on the issuance of the
889 certificate of need.



890 (o) The department may issue a certificate of need for
891 the new construction, addition or conversion of skilled nursing
892 facility beds in Leake County, provided that the recipient of the
893 certificate of need agrees in writing that the skilled nursing
894 facility will not at any time participate in the Medicaid program
895 (Section 43-13-101 et seq.) or admit or keep any patients in the
896 skilled nursing facility who are participating in the Medicaid
897 program. This written agreement by the recipient of the
898 certificate of need shall be fully binding on any subsequent owner
899 of the skilled nursing facility, if the ownership of the facility
900 is transferred at any time after the issuance of the certificate
901 of need. Agreement that the skilled nursing facility will not
902 participate in the Medicaid program shall be a condition of the
903 issuance of a certificate of need to any person under this
904 paragraph (o), and if such skilled nursing facility at any time
905 after the issuance of the certificate of need, regardless of the
906 ownership of the facility, participates in the Medicaid program or
907 admits or keeps any patients in the facility who are participating
908 in the Medicaid program, the State Department of Health shall
909 revoke the certificate of need, if it is still outstanding, and
910 shall deny or revoke the license of the skilled nursing facility,
911 at the time that the department determines, after a hearing
912 complying with due process, that the facility has failed to comply
913 with any of the conditions upon which the certificate of need was
914 issued, as provided in this paragraph and in the written agreement



915 by the recipient of the certificate of need. The total number of
916 nursing facility beds that may be authorized by any certificate of
917 need issued under this paragraph (o) shall not exceed sixty (60)
918 beds. If the certificate of need authorized under this paragraph
919 is not issued within twelve (12) months after July 1, 2001, the
920 department shall deny the application for the certificate of need
921 and shall not issue the certificate of need at any time after the
922 twelve-month period, unless the issuance is contested. If the
923 certificate of need is issued and substantial construction of the
924 nursing facility beds has not commenced within eighteen (18)
925 months after July 1, 2001, the State Department of Health, after a
926 hearing complying with due process, shall revoke the certificate
927 of need if it is still outstanding, and the department shall not
928 issue a license for the nursing facility at any time after the
929 eighteen-month period. However, if the issuance of the
930 certificate of need is contested, the department shall require
931 substantial construction of the nursing facility beds within six
932 (6) months after final adjudication on the issuance of the
933 certificate of need.

934 (p) The department may issue a certificate of need for
935 the construction of a municipally owned nursing facility within
936 the Town of Belmont in Tishomingo County, not to exceed sixty (60)
937 beds, provided that the recipient of the certificate of need
938 agrees in writing that the skilled nursing facility will not at
939 any time participate in the Medicaid program (Section 43-13-101 et



940 seq.) or admit or keep any patients in the skilled nursing
941 facility who are participating in the Medicaid program. This
942 written agreement by the recipient of the certificate of need
943 shall be fully binding on any subsequent owner of the skilled
944 nursing facility, if the ownership of the facility is transferred
945 at any time after the issuance of the certificate of need.
946 Agreement that the skilled nursing facility will not participate
947 in the Medicaid program shall be a condition of the issuance of a
948 certificate of need to any person under this paragraph (p), and if
949 such skilled nursing facility at any time after the issuance of
950 the certificate of need, regardless of the ownership of the
951 facility, participates in the Medicaid program or admits or keeps
952 any patients in the facility who are participating in the Medicaid
953 program, the State Department of Health shall revoke the
954 certificate of need, if it is still outstanding, and shall deny or
955 revoke the license of the skilled nursing facility, at the time
956 that the department determines, after a hearing complying with due
957 process, that the facility has failed to comply with any of the
958 conditions upon which the certificate of need was issued, as
959 provided in this paragraph and in the written agreement by the
960 recipient of the certificate of need. The provision of Section
961 41-7-193(1) regarding substantial compliance of the projection of
962 need as reported in the current State Health Plan is waived for
963 the purposes of this paragraph. If the certificate of need
964 authorized under this paragraph is not issued within twelve (12)



965 months after July 1, 1998, the department shall deny the
966 application for the certificate of need and shall not issue the
967 certificate of need at any time after the twelve-month period,
968 unless the issuance is contested. If the certificate of need is
969 issued and substantial construction of the nursing facility beds
970 has not commenced within eighteen (18) months after July 1, 1998,
971 the State Department of Health, after a hearing complying with due
972 process, shall revoke the certificate of need if it is still
973 outstanding, and the department shall not issue a license for the
974 nursing facility at any time after the eighteen-month period.
975 However, if the issuance of the certificate of need is contested,
976 the department shall require substantial construction of the
977 nursing facility beds within six (6) months after final
978 adjudication on the issuance of the certificate of need.

979 (q) (i) Beginning on July 1, 1999, the State
980 Department of Health shall issue certificates of need during each
981 of the next four (4) fiscal years for the construction or
982 expansion of nursing facility beds or the conversion of other beds
983 to nursing facility beds in each county in the state having a need
984 for fifty (50) or more additional nursing facility beds, as shown
985 in the fiscal year 1999 State Health Plan, in the manner provided
986 in this paragraph (q). The total number of nursing facility beds
987 that may be authorized by any certificate of need authorized under
988 this paragraph (q) shall not exceed sixty (60) beds.



989 (ii) Subject to the provisions of subparagraph
990 (v), during each of the next four (4) fiscal years, the department
991 shall issue six (6) certificates of need for new nursing facility
992 beds, as follows: During fiscal years 2000, 2001 and 2002, one
993 (1) certificate of need shall be issued for new nursing facility
994 beds in the county in each of the four (4) Long-Term Care Planning
995 Districts designated in the fiscal year 1999 State Health Plan
996 that has the highest need in the district for those beds; and two
997 (2) certificates of need shall be issued for new nursing facility
998 beds in the two (2) counties from the state at large that have the
999 highest need in the state for those beds, when considering the
1000 need on a statewide basis and without regard to the Long-Term Care
1001 Planning Districts in which the counties are located. During
1002 fiscal year 2003, one (1) certificate of need shall be issued for
1003 new nursing facility beds in any county having a need for fifty
1004 (50) or more additional nursing facility beds, as shown in the
1005 fiscal year 1999 State Health Plan, that has not received a
1006 certificate of need under this paragraph (q) during the three (3)
1007 previous fiscal years. During fiscal year 2000, in addition to
1008 the six (6) certificates of need authorized in this subparagraph,
1009 the department also shall issue a certificate of need for new
1010 nursing facility beds in Amite County and a certificate of need
1011 for new nursing facility beds in Carroll County.

1012 (iii) Subject to the provisions of subparagraph
1013 (v), the certificate of need issued under subparagraph (ii) for



1014 nursing facility beds in each Long-Term Care Planning District
1015 during each fiscal year shall first be available for nursing
1016 facility beds in the county in the district having the highest
1017 need for those beds, as shown in the fiscal year 1999 State Health
1018 Plan. If there are no applications for a certificate of need for
1019 nursing facility beds in the county having the highest need for
1020 those beds by the date specified by the department, then the
1021 certificate of need shall be available for nursing facility beds
1022 in other counties in the district in descending order of the need
1023 for those beds, from the county with the second highest need to
1024 the county with the lowest need, until an application is received
1025 for nursing facility beds in an eligible county in the district.

1026 (iv) Subject to the provisions of subparagraph
1027 (v), the certificate of need issued under subparagraph (ii) for
1028 nursing facility beds in the two (2) counties from the state at
1029 large during each fiscal year shall first be available for nursing
1030 facility beds in the two (2) counties that have the highest need
1031 in the state for those beds, as shown in the fiscal year 1999
1032 State Health Plan, when considering the need on a statewide basis
1033 and without regard to the Long-Term Care Planning Districts in
1034 which the counties are located. If there are no applications for
1035 a certificate of need for nursing facility beds in either of the
1036 two (2) counties having the highest need for those beds on a
1037 statewide basis by the date specified by the department, then the
1038 certificate of need shall be available for nursing facility beds



1039 in other counties from the state at large in descending order of
1040 the need for those beds on a statewide basis, from the county with
1041 the second highest need to the county with the lowest need, until
1042 an application is received for nursing facility beds in an
1043 eligible county from the state at large.

1044 (v) If a certificate of need is authorized to be
1045 issued under this paragraph (q) for nursing facility beds in a
1046 county on the basis of the need in the Long-Term Care Planning
1047 District during any fiscal year of the four-year period, a
1048 certificate of need shall not also be available under this
1049 paragraph (q) for additional nursing facility beds in that county
1050 on the basis of the need in the state at large, and that county
1051 shall be excluded in determining which counties have the highest
1052 need for nursing facility beds in the state at large for that
1053 fiscal year. After a certificate of need has been issued under
1054 this paragraph (q) for nursing facility beds in a county during
1055 any fiscal year of the four-year period, a certificate of need
1056 shall not be available again under this paragraph (q) for
1057 additional nursing facility beds in that county during the
1058 four-year period, and that county shall be excluded in determining
1059 which counties have the highest need for nursing facility beds in
1060 succeeding fiscal years.

1061 (vi) If more than one (1) application is made for
1062 a certificate of need for nursing home facility beds available
1063 under this paragraph (q), in Yalobusha, Newton or Tallahatchie



1064 County, and one (1) of the applicants is a county-owned hospital
1065 located in the county where the nursing facility beds are
1066 available, the department shall give priority to the county-owned
1067 hospital in granting the certificate of need if the following
1068 conditions are met:

1069 1. The county-owned hospital fully meets all
1070 applicable criteria and standards required to obtain a certificate
1071 of need for the nursing facility beds; and

1072 2. The county-owned hospital's qualifications
1073 for the certificate of need, as shown in its application and as
1074 determined by the department, are at least equal to the
1075 qualifications of the other applicants for the certificate of
1076 need.

1077 (r) (i) Beginning on July 1, 1999, the State
1078 Department of Health shall issue certificates of need during each
1079 of the next two (2) fiscal years for the construction or expansion
1080 of nursing facility beds or the conversion of other beds to
1081 nursing facility beds in each of the four (4) Long-Term Care
1082 Planning Districts designated in the fiscal year 1999 State Health
1083 Plan, to provide care exclusively to patients with Alzheimer's
1084 disease.

1085 (ii) Not more than twenty (20) beds may be
1086 authorized by any certificate of need issued under this paragraph
1087 (r), and not more than a total of sixty (60) beds may be
1088 authorized in any Long-Term Care Planning District by all



1089 certificates of need issued under this paragraph (r). However,
1090 the total number of beds that may be authorized by all
1091 certificates of need issued under this paragraph (r) during any
1092 fiscal year shall not exceed one hundred twenty (120) beds, and
1093 the total number of beds that may be authorized in any Long-Term
1094 Care Planning District during any fiscal year shall not exceed
1095 forty (40) beds. Of the certificates of need that are issued for
1096 each Long-Term Care Planning District during the next two (2)
1097 fiscal years, at least one (1) shall be issued for beds in the
1098 northern part of the district, at least one (1) shall be issued
1099 for beds in the central part of the district, and at least one (1)
1100 shall be issued for beds in the southern part of the district.

1101 (iii) The State Department of Health, in
1102 consultation with the Department of Mental Health and the Division
1103 of Medicaid, shall develop and prescribe the staffing levels,
1104 space requirements and other standards and requirements that must
1105 be met with regard to the nursing facility beds authorized under
1106 this paragraph (r) to provide care exclusively to patients with
1107 Alzheimer's disease.

1108 (s) The State Department of Health may issue a
1109 certificate of need to a nonprofit skilled nursing facility using
1110 the Green House model of skilled nursing care and located in Yazoo
1111 City, Yazoo County, Mississippi, for the construction, expansion
1112 or conversion of not more than nineteen (19) nursing facility
1113 beds. For purposes of this paragraph (s), the provisions of



1114 Section 41-7-193(1) requiring substantial compliance with the
1115 projection of need as reported in the current State Health Plan
1116 and the provisions of Section 41-7-197 requiring a formal
1117 certificate of need hearing process are waived. There shall be no
1118 prohibition or restrictions on participation in the Medicaid
1119 program for the person receiving the certificate of need
1120 authorized under this paragraph (s).

1121 (t) The State Department of Health shall issue
1122 certificates of need to the owner of a nursing facility in
1123 operation at the time of Hurricane Katrina in Hancock County that
1124 was not operational on December 31, 2005, because of damage
1125 sustained from Hurricane Katrina to authorize the following: (i)
1126 the construction of a new nursing facility in Harrison County;
1127 (ii) the relocation of forty-nine (49) nursing facility beds from
1128 the Hancock County facility to the new Harrison County facility;
1129 (iii) the establishment of not more than twenty (20) non-Medicaid
1130 nursing facility beds at the Hancock County facility; and (iv) the
1131 establishment of not more than twenty (20) non-Medicaid beds at
1132 the new Harrison County facility. The certificates of need that
1133 authorize the non-Medicaid nursing facility beds under
1134 subparagraphs (iii) and (iv) of this paragraph (t) shall be
1135 subject to the following conditions: The owner of the Hancock
1136 County facility and the new Harrison County facility must agree in
1137 writing that no more than fifty (50) of the beds at the Hancock
1138 County facility and no more than forty-nine (49) of the beds at



1139 the Harrison County facility will be certified for participation
1140 in the Medicaid program, and that no claim will be submitted for
1141 Medicaid reimbursement for more than fifty (50) patients in the
1142 Hancock County facility in any month, or for more than forty-nine
1143 (49) patients in the Harrison County facility in any month, or for
1144 any patient in either facility who is in a bed that is not
1145 Medicaid-certified. This written agreement by the owner of the
1146 nursing facilities shall be a condition of the issuance of the
1147 certificates of need under this paragraph (t), and the agreement
1148 shall be fully binding on any later owner or owners of either
1149 facility if the ownership of either facility is transferred at any
1150 time after the certificates of need are issued. After this
1151 written agreement is executed, the Division of Medicaid and the
1152 State Department of Health shall not certify more than fifty (50)
1153 of the beds at the Hancock County facility or more than forty-nine
1154 (49) of the beds at the Harrison County facility for participation
1155 in the Medicaid program. If the Hancock County facility violates
1156 the terms of the written agreement by admitting or keeping in the
1157 facility on a regular or continuing basis more than fifty (50)
1158 patients who are participating in the Medicaid program, or if the
1159 Harrison County facility violates the terms of the written
1160 agreement by admitting or keeping in the facility on a regular or
1161 continuing basis more than forty-nine (49) patients who are
1162 participating in the Medicaid program, the State Department of
1163 Health shall revoke the license of the facility that is in



1164 violation of the agreement, at the time that the department
1165 determines, after a hearing complying with due process, that the
1166 facility has violated the agreement.

1167 (u) The State Department of Health shall issue a
1168 certificate of need to a nonprofit venture for the establishment,
1169 construction and operation of a skilled nursing facility of not
1170 more than sixty (60) beds to provide skilled nursing care for
1171 ventilator dependent or otherwise medically dependent pediatric
1172 patients who require medical and nursing care or rehabilitation
1173 services to be located in a county in which an academic medical
1174 center and a children's hospital are located, and for any
1175 construction and for the acquisition of equipment related to those
1176 beds. The facility shall be authorized to keep such ventilator
1177 dependent or otherwise medically dependent pediatric patients
1178 beyond age twenty-one (21) in accordance with regulations of the
1179 State Board of Health. For purposes of this paragraph (u), the
1180 provisions of Section 41-7-193(1) requiring substantial compliance
1181 with the projection of need as reported in the current State
1182 Health Plan are waived, and the provisions of Section 41-7-197
1183 requiring a formal certificate of need hearing process are waived.
1184 The beds authorized by this paragraph shall be counted as
1185 pediatric skilled nursing facility beds for health planning
1186 purposes under Section 41-7-171 et seq. There shall be no
1187 prohibition of or restrictions on participation in the Medicaid



1188 program for the person receiving the certificate of need
1189 authorized by this paragraph.

1190 (3) The State Department of Health may grant approval for
1191 and issue certificates of need to any person proposing the new
1192 construction of, addition to, conversion of beds of or expansion
1193 of any health care facility defined in subparagraph (x)
1194 (psychiatric residential treatment facility) of Section
1195 41-7-173(* * *he). The total number of beds which may be
1196 authorized by such certificates of need shall not exceed three
1197 hundred thirty-four (334) beds for the entire state.

1198 (a) Of the total number of beds authorized under this
1199 subsection, the department shall issue a certificate of need to a
1200 privately owned psychiatric residential treatment facility in
1201 Simpson County for the conversion of sixteen (16) intermediate
1202 care facility for the * * *~~mentally retarded (ICF-MR)~~
1203 intellectually disabled (ICF-ID) beds to psychiatric residential
1204 treatment facility beds, provided that facility agrees in writing
1205 that the facility shall give priority for the use of those sixteen
1206 (16) beds to Mississippi residents who are presently being treated
1207 in out-of-state facilities.

1208 (b) Of the total number of beds authorized under this
1209 subsection, the department may issue a certificate or certificates
1210 of need for the construction or expansion of psychiatric
1211 residential treatment facility beds or the conversion of other
1212 beds to psychiatric residential treatment facility beds in Warren



1213 County, not to exceed sixty (60) psychiatric residential treatment
1214 facility beds, provided that the facility agrees in writing that
1215 no more than thirty (30) of the beds at the psychiatric
1216 residential treatment facility will be certified for participation
1217 in the Medicaid program (Section 43-13-101 et seq.) for the use of
1218 any patients other than those who are participating only in the
1219 Medicaid program of another state, and that no claim will be
1220 submitted to the Division of Medicaid for Medicaid reimbursement
1221 for more than thirty (30) patients in the psychiatric residential
1222 treatment facility in any day or for any patient in the
1223 psychiatric residential treatment facility who is in a bed that is
1224 not Medicaid-certified. This written agreement by the recipient
1225 of the certificate of need shall be a condition of the issuance of
1226 the certificate of need under this paragraph, and the agreement
1227 shall be fully binding on any subsequent owner of the psychiatric
1228 residential treatment facility if the ownership of the facility is
1229 transferred at any time after the issuance of the certificate of
1230 need. After this written agreement is executed, the Division of
1231 Medicaid and the State Department of Health shall not certify more
1232 than thirty (30) of the beds in the psychiatric residential
1233 treatment facility for participation in the Medicaid program for
1234 the use of any patients other than those who are participating
1235 only in the Medicaid program of another state. If the psychiatric
1236 residential treatment facility violates the terms of the written
1237 agreement by admitting or keeping in the facility on a regular or



1238 continuing basis more than thirty (30) patients who are
1239 participating in the Mississippi Medicaid program, the State
1240 Department of Health shall revoke the license of the facility, at
1241 the time that the department determines, after a hearing complying
1242 with due process, that the facility has violated the condition
1243 upon which the certificate of need was issued, as provided in this
1244 paragraph and in the written agreement.

1245 The State Department of Health, on or before July 1, 2002,
1246 shall transfer the certificate of need authorized under the
1247 authority of this paragraph (b), or reissue the certificate of
1248 need if it has expired, to River Region Health System.

1249 (c) Of the total number of beds authorized under this
1250 subsection, the department shall issue a certificate of need to a
1251 hospital currently operating Medicaid-certified acute psychiatric
1252 beds for adolescents in DeSoto County, for the establishment of a
1253 forty-bed psychiatric residential treatment facility in DeSoto
1254 County, provided that the hospital agrees in writing (i) that the
1255 hospital shall give priority for the use of those forty (40) beds
1256 to Mississippi residents who are presently being treated in
1257 out-of-state facilities, and (ii) that no more than fifteen (15)
1258 of the beds at the psychiatric residential treatment facility will
1259 be certified for participation in the Medicaid program (Section
1260 43-13-101 et seq.), and that no claim will be submitted for
1261 Medicaid reimbursement for more than fifteen (15) patients in the
1262 psychiatric residential treatment facility in any day or for any



1263 patient in the psychiatric residential treatment facility who is
1264 in a bed that is not Medicaid-certified. This written agreement
1265 by the recipient of the certificate of need shall be a condition
1266 of the issuance of the certificate of need under this paragraph,
1267 and the agreement shall be fully binding on any subsequent owner
1268 of the psychiatric residential treatment facility if the ownership
1269 of the facility is transferred at any time after the issuance of
1270 the certificate of need. After this written agreement is
1271 executed, the Division of Medicaid and the State Department of
1272 Health shall not certify more than fifteen (15) of the beds in the
1273 psychiatric residential treatment facility for participation in
1274 the Medicaid program. If the psychiatric residential treatment
1275 facility violates the terms of the written agreement by admitting
1276 or keeping in the facility on a regular or continuing basis more
1277 than fifteen (15) patients who are participating in the Medicaid
1278 program, the State Department of Health shall revoke the license
1279 of the facility, at the time that the department determines, after
1280 a hearing complying with due process, that the facility has
1281 violated the condition upon which the certificate of need was
1282 issued, as provided in this paragraph and in the written
1283 agreement.

1284 (d) Of the total number of beds authorized under this
1285 subsection, the department may issue a certificate or certificates
1286 of need for the construction or expansion of psychiatric
1287 residential treatment facility beds or the conversion of other



1288 beds to psychiatric treatment facility beds, not to exceed thirty
1289 (30) psychiatric residential treatment facility beds, in either
1290 Alcorn, Tishomingo, Prentiss, Lee, Itawamba, Monroe, Chickasaw,
1291 Pontotoc, Calhoun, Lafayette, Union, Benton or Tippah County.

1292 (e) Of the total number of beds authorized under this
1293 subsection (3) the department shall issue a certificate of need to
1294 a privately owned, nonprofit psychiatric residential treatment
1295 facility in Hinds County for an eight-bed expansion of the
1296 facility, provided that the facility agrees in writing that the
1297 facility shall give priority for the use of those eight (8) beds
1298 to Mississippi residents who are presently being treated in
1299 out-of-state facilities.

1300 (f) The department shall issue a certificate of need to
1301 a one-hundred-thirty-four-bed specialty hospital located on
1302 twenty-nine and forty-four one-hundredths (29.44) commercial acres
1303 at 5900 Highway 39 North in Meridian (Lauderdale County),
1304 Mississippi, for the addition, construction or expansion of
1305 child/adolescent psychiatric residential treatment facility beds
1306 in Lauderdale County. As a condition of issuance of the
1307 certificate of need under this paragraph, the facility shall give
1308 priority in admissions to the child/adolescent psychiatric
1309 residential treatment facility beds authorized under this
1310 paragraph to patients who otherwise would require out-of-state
1311 placement. The Division of Medicaid, in conjunction with the
1312 Department of Human Services, shall furnish the facility a list of



1313 all out-of-state patients on a quarterly basis. Furthermore,
1314 notice shall also be provided to the parent, custodial parent or
1315 guardian of each out-of-state patient notifying them of the
1316 priority status granted by this paragraph. For purposes of this
1317 paragraph, the provisions of Section 41-7-193(1) requiring
1318 substantial compliance with the projection of need as reported in
1319 the current State Health Plan are waived. The total number of
1320 child/adolescent psychiatric residential treatment facility beds
1321 that may be authorized under the authority of this paragraph shall
1322 be sixty (60) beds. There shall be no prohibition or restrictions
1323 on participation in the Medicaid program (Section 43-13-101 et
1324 seq.) for the person receiving the certificate of need authorized
1325 under this paragraph or for the beds converted pursuant to the
1326 authority of that certificate of need.

1327 (4) (a) From and after July 1, 1993, the department shall
1328 not issue a certificate of need to any person for the new
1329 construction of any hospital, psychiatric hospital or chemical
1330 dependency hospital that will contain any child/adolescent
1331 psychiatric or child/adolescent chemical dependency beds, or for
1332 the conversion of any other health care facility to a hospital,
1333 psychiatric hospital or chemical dependency hospital that will
1334 contain any child/adolescent psychiatric or child/adolescent
1335 chemical dependency beds, or for the addition of any
1336 child/adolescent psychiatric or child/adolescent chemical
1337 dependency beds in any hospital, psychiatric hospital or chemical



1338 dependency hospital, or for the conversion of any beds of another
1339 category in any hospital, psychiatric hospital or chemical
1340 dependency hospital to child/adolescent psychiatric or
1341 child/adolescent chemical dependency beds, except as hereinafter
1342 authorized:

1343 (i) The department may issue certificates of need
1344 to any person for any purpose described in this subsection,
1345 provided that the hospital, psychiatric hospital or chemical
1346 dependency hospital does not participate in the Medicaid program
1347 (Section 43-13-101 et seq.) at the time of the application for the
1348 certificate of need and the owner of the hospital, psychiatric
1349 hospital or chemical dependency hospital agrees in writing that
1350 the hospital, psychiatric hospital or chemical dependency hospital
1351 will not at any time participate in the Medicaid program or admit
1352 or keep any patients who are participating in the Medicaid program
1353 in the hospital, psychiatric hospital or chemical dependency
1354 hospital. This written agreement by the recipient of the
1355 certificate of need shall be fully binding on any subsequent owner
1356 of the hospital, psychiatric hospital or chemical dependency
1357 hospital, if the ownership of the facility is transferred at any
1358 time after the issuance of the certificate of need. Agreement
1359 that the hospital, psychiatric hospital or chemical dependency
1360 hospital will not participate in the Medicaid program shall be a
1361 condition of the issuance of a certificate of need to any person
1362 under this subparagraph (i), and if such hospital, psychiatric



1363 hospital or chemical dependency hospital at any time after the
1364 issuance of the certificate of need, regardless of the ownership
1365 of the facility, participates in the Medicaid program or admits or
1366 keeps any patients in the hospital, psychiatric hospital or
1367 chemical dependency hospital who are participating in the Medicaid
1368 program, the State Department of Health shall revoke the
1369 certificate of need, if it is still outstanding, and shall deny or
1370 revoke the license of the hospital, psychiatric hospital or
1371 chemical dependency hospital, at the time that the department
1372 determines, after a hearing complying with due process, that the
1373 hospital, psychiatric hospital or chemical dependency hospital has
1374 failed to comply with any of the conditions upon which the
1375 certificate of need was issued, as provided in this subparagraph
1376 (i) and in the written agreement by the recipient of the
1377 certificate of need.

1378 (ii) The department may issue a certificate of
1379 need for the conversion of existing beds in a county hospital in
1380 Choctaw County from acute care beds to child/adolescent chemical
1381 dependency beds. For purposes of this subparagraph (ii), the
1382 provisions of Section 41-7-193(1) requiring substantial compliance
1383 with the projection of need as reported in the current State
1384 Health Plan are waived. The total number of beds that may be
1385 authorized under authority of this subparagraph shall not exceed
1386 twenty (20) beds. There shall be no prohibition or restrictions
1387 on participation in the Medicaid program (Section 43-13-101 et



1388 seq.) for the hospital receiving the certificate of need
1389 authorized under this subparagraph or for the beds converted
1390 pursuant to the authority of that certificate of need.

1391 (iii) The department may issue a certificate or
1392 certificates of need for the construction or expansion of
1393 child/adolescent psychiatric beds or the conversion of other beds
1394 to child/adolescent psychiatric beds in Warren County. For
1395 purposes of this subparagraph (iii), the provisions of Section
1396 41-7-193(1) requiring substantial compliance with the projection
1397 of need as reported in the current State Health Plan are waived.
1398 The total number of beds that may be authorized under the
1399 authority of this subparagraph shall not exceed twenty (20) beds.
1400 There shall be no prohibition or restrictions on participation in
1401 the Medicaid program (Section 43-13-101 et seq.) for the person
1402 receiving the certificate of need authorized under this
1403 subparagraph or for the beds converted pursuant to the authority
1404 of that certificate of need.

1405 If by January 1, 2002, there has been no significant
1406 commencement of construction of the beds authorized under this
1407 subparagraph (iii), or no significant action taken to convert
1408 existing beds to the beds authorized under this subparagraph, then
1409 the certificate of need that was previously issued under this
1410 subparagraph shall expire. If the previously issued certificate
1411 of need expires, the department may accept applications for
1412 issuance of another certificate of need for the beds authorized



1413 under this subparagraph, and may issue a certificate of need to
1414 authorize the construction, expansion or conversion of the beds
1415 authorized under this subparagraph.

1416 (iv) The department shall issue a certificate of
1417 need to the Region 7 Mental Health/Retardation Commission for the
1418 construction or expansion of child/adolescent psychiatric beds or
1419 the conversion of other beds to child/adolescent psychiatric beds
1420 in any of the counties served by the commission. For purposes of
1421 this subparagraph (iv), the provisions of Section 41-7-193(1)
1422 requiring substantial compliance with the projection of need as
1423 reported in the current State Health Plan are waived. The total
1424 number of beds that may be authorized under the authority of this
1425 subparagraph shall not exceed twenty (20) beds. There shall be no
1426 prohibition or restrictions on participation in the Medicaid
1427 program (Section 43-13-101 et seq.) for the person receiving the
1428 certificate of need authorized under this subparagraph or for the
1429 beds converted pursuant to the authority of that certificate of
1430 need.

1431 (v) The department may issue a certificate of need
1432 to any county hospital located in Leflore County for the
1433 construction or expansion of adult psychiatric beds or the
1434 conversion of other beds to adult psychiatric beds, not to exceed
1435 twenty (20) beds, provided that the recipient of the certificate
1436 of need agrees in writing that the adult psychiatric beds will not
1437 at any time be certified for participation in the Medicaid program



1438 and that the hospital will not admit or keep any patients who are
1439 participating in the Medicaid program in any of such adult
1440 psychiatric beds. This written agreement by the recipient of the
1441 certificate of need shall be fully binding on any subsequent owner
1442 of the hospital if the ownership of the hospital is transferred at
1443 any time after the issuance of the certificate of need. Agreement
1444 that the adult psychiatric beds will not be certified for
1445 participation in the Medicaid program shall be a condition of the
1446 issuance of a certificate of need to any person under this
1447 subparagraph (v), and if such hospital at any time after the
1448 issuance of the certificate of need, regardless of the ownership
1449 of the hospital, has any of such adult psychiatric beds certified
1450 for participation in the Medicaid program or admits or keeps any
1451 Medicaid patients in such adult psychiatric beds, the State
1452 Department of Health shall revoke the certificate of need, if it
1453 is still outstanding, and shall deny or revoke the license of the
1454 hospital at the time that the department determines, after a
1455 hearing complying with due process, that the hospital has failed
1456 to comply with any of the conditions upon which the certificate of
1457 need was issued, as provided in this subparagraph and in the
1458 written agreement by the recipient of the certificate of need.

1459 (vi) The department may issue a certificate or
1460 certificates of need for the expansion of child psychiatric beds
1461 or the conversion of other beds to child psychiatric beds at the
1462 University of Mississippi Medical Center. For purposes of this



1463 subparagraph (vi), the provisions of Section 41-7-193(1) requiring
1464 substantial compliance with the projection of need as reported in
1465 the current State Health Plan are waived. The total number of
1466 beds that may be authorized under the authority of this
1467 subparagraph shall not exceed fifteen (15) beds. There shall be
1468 no prohibition or restrictions on participation in the Medicaid
1469 program (Section 43-13-101 et seq.) for the hospital receiving the
1470 certificate of need authorized under this subparagraph or for the
1471 beds converted pursuant to the authority of that certificate of
1472 need.

1473 (b) From and after July 1, 1990, no hospital,
1474 psychiatric hospital or chemical dependency hospital shall be
1475 authorized to add any child/adolescent psychiatric or
1476 child/adolescent chemical dependency beds or convert any beds of
1477 another category to child/adolescent psychiatric or
1478 child/adolescent chemical dependency beds without a certificate of
1479 need under the authority of subsection (1)(c) of this section.

1480 (5) The department may issue a certificate of need to a
1481 county hospital in Winston County for the conversion of fifteen
1482 (15) acute care beds to geriatric psychiatric care beds.

1483 (6) The State Department of Health shall issue a certificate
1484 of need to a Mississippi corporation qualified to manage a
1485 long-term care hospital as defined in Section
1486 41-7-173(* * *he) (xii) in Harrison County, not to exceed eighty
1487 (80) beds, including any necessary renovation or construction



1488 required for licensure and certification, provided that the
1489 recipient of the certificate of need agrees in writing that the
1490 long-term care hospital will not at any time participate in the
1491 Medicaid program (Section 43-13-101 et seq.) or admit or keep any
1492 patients in the long-term care hospital who are participating in
1493 the Medicaid program. This written agreement by the recipient of
1494 the certificate of need shall be fully binding on any subsequent
1495 owner of the long-term care hospital, if the ownership of the
1496 facility is transferred at any time after the issuance of the
1497 certificate of need. Agreement that the long-term care hospital
1498 will not participate in the Medicaid program shall be a condition
1499 of the issuance of a certificate of need to any person under this
1500 subsection (6), and if such long-term care hospital at any time
1501 after the issuance of the certificate of need, regardless of the
1502 ownership of the facility, participates in the Medicaid program or
1503 admits or keeps any patients in the facility who are participating
1504 in the Medicaid program, the State Department of Health shall
1505 revoke the certificate of need, if it is still outstanding, and
1506 shall deny or revoke the license of the long-term care hospital,
1507 at the time that the department determines, after a hearing
1508 complying with due process, that the facility has failed to comply
1509 with any of the conditions upon which the certificate of need was
1510 issued, as provided in this subsection and in the written
1511 agreement by the recipient of the certificate of need. For
1512 purposes of this subsection, the provisions of Section 41-7-193(1)



1513 requiring substantial compliance with the projection of need as
1514 reported in the current State Health Plan are waived.

1515 (7) The State Department of Health may issue a certificate
1516 of need to any hospital in the state to utilize a portion of its
1517 beds for the "swing-bed" concept. Any such hospital must be in
1518 conformance with the federal regulations regarding such swing-bed
1519 concept at the time it submits its application for a certificate
1520 of need to the State Department of Health, except that such
1521 hospital may have more licensed beds or a higher average daily
1522 census (ADC) than the maximum number specified in federal
1523 regulations for participation in the swing-bed program. Any
1524 hospital meeting all federal requirements for participation in the
1525 swing-bed program which receives such certificate of need shall
1526 render services provided under the swing-bed concept to any
1527 patient eligible for Medicare (Title XVIII of the Social Security
1528 Act) who is certified by a physician to be in need of such
1529 services, and no such hospital shall permit any patient who is
1530 eligible for both Medicaid and Medicare or eligible only for
1531 Medicaid to stay in the swing beds of the hospital for more than
1532 thirty (30) days per admission unless the hospital receives prior
1533 approval for such patient from the Division of Medicaid, Office of
1534 the Governor. Any hospital having more licensed beds or a higher
1535 average daily census (ADC) than the maximum number specified in
1536 federal regulations for participation in the swing-bed program
1537 which receives such certificate of need shall develop a procedure



1538 to insure that before a patient is allowed to stay in the swing
1539 beds of the hospital, there are no vacant nursing home beds
1540 available for that patient located within a fifty-mile radius of
1541 the hospital. When any such hospital has a patient staying in the
1542 swing beds of the hospital and the hospital receives notice from a
1543 nursing home located within such radius that there is a vacant bed
1544 available for that patient, the hospital shall transfer the
1545 patient to the nursing home within a reasonable time after receipt
1546 of the notice. Any hospital which is subject to the requirements
1547 of the two (2) preceding sentences of this subsection may be
1548 suspended from participation in the swing-bed program for a
1549 reasonable period of time by the State Department of Health if the
1550 department, after a hearing complying with due process, determines
1551 that the hospital has failed to comply with any of those
1552 requirements.

1553 (8) The Department of Health shall not grant approval for or
1554 issue a certificate of need to any person proposing the new
1555 construction of, addition to or expansion of a health care
1556 facility as defined in subparagraph (viii) of Section
1557 41-7-173(* * *he), except as hereinafter provided: The
1558 department may issue a certificate of need to a nonprofit
1559 corporation located in Madison County, Mississippi, for the
1560 construction, expansion or conversion of not more than twenty (20)
1561 beds in a community living program for developmentally disabled
1562 adults in a facility as defined in subparagraph (viii) of Section



1563 41-7-173(* * *he). For purposes of this subsection (8), the
1564 provisions of Section 41-7-193(1) requiring substantial compliance
1565 with the projection of need as reported in the current State
1566 Health Plan and the provisions of Section 41-7-197 requiring a
1567 formal certificate of need hearing process are waived. There
1568 shall be no prohibition or restrictions on participation in the
1569 Medicaid program for the person receiving the certificate of need
1570 authorized under this subsection (8).

1571 (9) The Department of Health shall not grant approval for or
1572 issue a certificate of need to any person proposing the
1573 establishment of, or expansion of the currently approved territory
1574 of, or the contracting to establish a home office, subunit or
1575 branch office within the space operated as a health care facility
1576 as defined in Section 41-7-173(* * *he) (i) through (viii) by a
1577 health care facility as defined in subparagraph (ix) of Section
1578 41-7-173(* * *he).

1579 (10) Health care facilities owned and/or operated by the
1580 state or its agencies are exempt from the restraints in this
1581 section against issuance of a certificate of need if such addition
1582 or expansion consists of repairing or renovation necessary to
1583 comply with the state licensure law. This exception shall not
1584 apply to the new construction of any building by such state
1585 facility. This exception shall not apply to any health care
1586 facilities owned and/or operated by counties, municipalities,



1587 districts, unincorporated areas, other defined persons, or any
1588 combination thereof.

1589 (11) The new construction, renovation or expansion of or
1590 addition to any health care facility defined in subparagraph (ii)
1591 (psychiatric hospital), subparagraph (iv) (skilled nursing
1592 facility), subparagraph (vi) (intermediate care facility),
1593 subparagraph (viii) (intermediate care facility for
1594 the * * *~~mentally retarded~~ intellectually disabled) and
1595 subparagraph (x) (psychiatric residential treatment facility) of
1596 Section 41-7-173(* * *~~he~~) which is owned by the State of
1597 Mississippi and under the direction and control of the State
1598 Department of Mental Health, and the addition of new beds or the
1599 conversion of beds from one category to another in any such
1600 defined health care facility which is owned by the State of
1601 Mississippi and under the direction and control of the State
1602 Department of Mental Health, shall not require the issuance of a
1603 certificate of need under Section 41-7-171 et seq.,
1604 notwithstanding any provision in Section 41-7-171 et seq. to the
1605 contrary.

1606 (12) The new construction, renovation or expansion of or
1607 addition to any veterans homes or domiciliaries for eligible
1608 veterans of the State of Mississippi as authorized under Section
1609 35-1-19 shall not require the issuance of a certificate of need,
1610 notwithstanding any provision in Section 41-7-171 et seq. to the
1611 contrary.



1612 (13) The repair or the rebuilding of an existing, operating
1613 health care facility that sustained significant damage from a
1614 natural disaster that occurred after April 15, 2014, in an area
1615 that is proclaimed a disaster area or subject to a state of
1616 emergency by the Governor or by the President of the United States
1617 shall be exempt from all of the requirements of the Mississippi
1618 Certificate of Need Law (Section 41-7-171 et seq.) and any and all
1619 rules and regulations promulgated under that law, subject to the
1620 following conditions:

1621 (a) The repair or the rebuilding of any such damaged
1622 health care facility must be within one (1) mile of the
1623 pre-disaster location of the campus of the damaged health care
1624 facility, except that any temporary post-disaster health care
1625 facility operating location may be within five (5) miles of the
1626 pre-disaster location of the damaged health care facility;

1627 (b) The repair or the rebuilding of the damaged health
1628 care facility (i) does not increase or change the complement of
1629 its bed capacity that it had before the Governor's or the
1630 President's proclamation, * * *~~(ii) does not increase or change~~
1631 ~~its levels and types of health care services that it provided~~
1632 ~~before~~ the Governor's or the President's proclamation, and
1633 (* * *~~iiii~~) does not rebuild in a different county; however,
1634 this paragraph does not restrict or prevent a health care facility
1635 from decreasing its bed capacity that it had before the Governor's
1636 or the President's proclamation, or from decreasing the levels of



1637 or decreasing or eliminating the types of health care services
1638 that it provided before the Governor's or the President's
1639 proclamation, when the damaged health care facility is repaired or
1640 rebuilt;

1641 (c) The exemption from Certificate of Need Law provided
1642 under this subsection (13) is valid for only five (5) years from
1643 the date of the Governor's or the President's proclamation. If
1644 actual construction has not begun within that five-year period,
1645 the exemption provided under this subsection is inapplicable; and

1646 (d) The Division of Health Facilities Licensure and
1647 Certification of the State Department of Health shall provide the
1648 same oversight for the repair or the rebuilding of the damaged
1649 health care facility that it provides to all health care facility
1650 construction projects in the state.

1651 For the purposes of this subsection (13), "significant
1652 damage" to a health care facility means damage to the health care
1653 facility requiring an expenditure of at least One Million Dollars
1654 (\$1,000,000.00).

1655 (14) The State Department of Health shall issue a
1656 certificate of need to any hospital which is currently licensed
1657 for two hundred fifty (250) or more acute care beds and is located
1658 in any general hospital service area not having a comprehensive
1659 cancer center, for the establishment and equipping of such a
1660 center which provides facilities and services for outpatient
1661 radiation oncology therapy, outpatient medical oncology therapy,



1662 and appropriate support services including the provision of
1663 radiation therapy services. The provisions of Section 41-7-193(1)
1664 regarding substantial compliance with the projection of need as
1665 reported in the current State Health Plan are waived for the
1666 purpose of this subsection.

1667 (15) The State Department of Health may authorize the
1668 transfer of hospital beds, not to exceed sixty (60) beds, from the
1669 North Panola Community Hospital to the South Panola Community
1670 Hospital. The authorization for the transfer of those beds shall
1671 be exempt from the certificate of need review process.

1672 (16) The State Department of Health shall issue any
1673 certificates of need necessary for Mississippi State University
1674 and a public or private health care provider to jointly acquire
1675 and operate a linear accelerator and a magnetic resonance imaging
1676 unit. Those certificates of need shall cover all capital
1677 expenditures related to the project between Mississippi State
1678 University and the health care provider, including, but not
1679 limited to, the acquisition of the linear accelerator, the
1680 magnetic resonance imaging unit and other radiological modalities;
1681 the offering of linear accelerator and magnetic resonance imaging
1682 services; and the cost of construction of facilities in which to
1683 locate these services. The linear accelerator and the magnetic
1684 resonance imaging unit shall be (a) located in the City of
1685 Starkville, Oktibbeha County, Mississippi; (b) operated jointly by
1686 Mississippi State University and the public or private health care



1687 provider selected by Mississippi State University through a
1688 request for proposals (RFP) process in which Mississippi State
1689 University selects, and the Board of Trustees of State
1690 Institutions of Higher Learning approves, the health care provider
1691 that makes the best overall proposal; (c) available to Mississippi
1692 State University for research purposes two-thirds (2/3) of the
1693 time that the linear accelerator and magnetic resonance imaging
1694 unit are operational; and (d) available to the public or private
1695 health care provider selected by Mississippi State University and
1696 approved by the Board of Trustees of State Institutions of Higher
1697 Learning one-third (1/3) of the time for clinical, diagnostic and
1698 treatment purposes. For purposes of this subsection, the
1699 provisions of Section 41-7-193(1) requiring substantial compliance
1700 with the projection of need as reported in the current State
1701 Health Plan are waived.

1702 (17) The State Department of Health shall issue a
1703 certificate of need for the construction of an acute care hospital
1704 in Kemper County, not to exceed twenty-five (25) beds, which shall
1705 be named the "John C. Stennis Memorial Hospital." In issuing the
1706 certificate of need under this subsection, the department shall
1707 give priority to a hospital located in Lauderdale County that has
1708 two hundred fifteen (215) beds. For purposes of this subsection,
1709 the provisions of Section 41-7-193(1) requiring substantial
1710 compliance with the projection of need as reported in the current
1711 State Health Plan and the provisions of Section 41-7-197 requiring



1712 a formal certificate of need hearing process are waived. There
1713 shall be no prohibition or restrictions on participation in the
1714 Medicaid program (Section 43-13-101 et seq.) for the person or
1715 entity receiving the certificate of need authorized under this
1716 subsection or for the beds constructed under the authority of that
1717 certificate of need.

1718 (18) The planning, design, construction, renovation,
1719 addition, furnishing and equipping of a clinical research unit at
1720 any health care facility defined in Section 41-7-173(* * *he)
1721 that is under the direction and control of the University of
1722 Mississippi Medical Center and located in Jackson, Mississippi,
1723 and the addition of new beds or the conversion of beds from one
1724 (1) category to another in any such clinical research unit, shall
1725 not require the issuance of a certificate of need under Section
1726 41-7-171 et seq., notwithstanding any provision in Section
1727 41-7-171 et seq. to the contrary.

1728 * * * ~~(19) Notwithstanding any other provision to the~~
1729 ~~contrary, the State Department of Health is authorized to approve~~
1730 ~~a change of ownership of a part of a health care facility. This~~
1731 ~~subsection (19) shall stand repealed June 30, 2016.~~

1732 (* * *2019) Nothing in this section or in any other
1733 provision of Section 41-7-171 et seq. shall prevent any nursing
1734 facility from designating an appropriate number of existing beds
1735 in the facility as beds for providing care exclusively to patients
1736 with Alzheimer's disease.



1737 **SECTION 8.** Section 41-7-193, Mississippi Code of 1972, is
1738 amended as follows:

1739 41-7-193. (1) No person may enter into any financing
1740 arrangement or commitment for financing a * * *~~new institutional~~
1741 ~~health service or any other~~ project requiring a certificate of
1742 need unless such certificate has been granted for such purpose. A
1743 certificate of need shall not be granted or issued to any person
1744 for any proposal, cause or reason, unless the proposal has been
1745 reviewed for consistency with the specifications and the criteria
1746 established by the State Department of Health and substantially
1747 complies with the projection of need as reported in the state
1748 health plan in effect at the time the application for the proposal
1749 was submitted.

1750 (2) An application for a certificate of need for * * *~~an~~
1751 ~~institutional health service, medical equipment or any~~ a proposal
1752 requiring a certificate of need shall specify the time, within
1753 that granted, such shall be functional or operational according to
1754 a time schedule submitted with the application. Each certificate
1755 of need shall specify the maximum amount of capital expenditure
1756 that may be obligated. The State Department of Health shall
1757 periodically review the progress and time schedule of any person
1758 issued or granted a certificate of need for any purpose.

1759 (3) An application for a certificate of need may be filed at
1760 any time with the department after the applicant has given the
1761 department fifteen (15) days' written notice of its intent to



1762 apply for a certificate of need. The department shall not delay
1763 review of an application. The department shall make its
1764 recommendation approving or disapproving a complete application
1765 within forty-five (45) days of the date the application was filed
1766 or within fifteen (15) days of receipt of any requested
1767 information, whichever is later, * * *~~said~~ the request to be made
1768 by the department within fifteen (15) days of the filing of the
1769 application.

1770 **SECTION 9.** Section 41-7-197, Mississippi Code of 1972, is
1771 amended as follows:

1772 41-7-197. (1) The State Department of Health shall adopt
1773 and * * *~~utilize~~ use procedures for conducting certificate of need
1774 reviews. Such procedures shall include, inter alia, the
1775 following: (a) written notification to the applicant; (b) written
1776 notification to health care facilities in the same health service
1777 area as the proposed * * *~~service~~ health care facility; (c)
1778 written notification to other persons who * * *~~prior to~~ before the
1779 receipt of the application have filed a formal notice of intent
1780 to * * *~~provide the proposed services~~ operate a health care
1781 facility in the same service area; and (d) notification to members
1782 of the public who reside in the service area where
1783 the * * *~~service~~ facility is proposed, which may be provided
1784 through newspapers or public information channels.

1785 (2) All notices provided shall include, inter alia, the
1786 following: (a) the proposed schedule for the review; (b) written



1787 notification of the period within which a public hearing during
1788 the course of the review may be requested in writing by one or
1789 more affected persons, such request to be made within ten (10)
1790 days of the department's staff recommendation for approval or
1791 disapproval of an application; and (c) the manner in which
1792 notification will be provided of the time and place of any hearing
1793 so requested. Any such hearing shall be * * *~~commenced~~ begun by
1794 an independent hearing officer designated by the State Department
1795 of Health within sixty (60) days of the filing of the hearing
1796 request unless all parties to the hearing agree to extend the time
1797 for the * * *~~commencement~~ beginning of the hearing. At such
1798 hearing, the hearing officer and any person affected by the
1799 proposal being reviewed may conduct reasonable questioning of
1800 persons who make relevant factual allegations concerning the
1801 proposal. The hearing officer shall require that all persons be
1802 sworn before they may offer any testimony at the hearing, and the
1803 hearing officer is authorized to administer oaths. Any person so
1804 choosing may be represented by counsel at the hearing. A record
1805 of the hearing shall be made, which shall consist of a transcript
1806 of all testimony received, all documents and other material
1807 introduced by any interested person, the staff report and
1808 recommendation and such other material as the hearing officer
1809 considers relevant, including his own recommendation, which he
1810 shall make, after reviewing, studying and analyzing the evidence
1811 presented during the hearing, within a reasonable period of time



1812 after the hearing is closed, which in no event shall exceed
1813 forty-five (45) days. The completed record shall be certified to
1814 the State Health Officer, who shall consider only the record in
1815 making his decision, and shall not consider any evidence or
1816 material * * *~~which~~ that is not included * * *~~therein~~ in the
1817 record. All final decisions regarding the issuance of a
1818 certificate of need shall be made by the State Health Officer.
1819 The State Health Officer shall make his or her written findings
1820 and issue his or her order after reviewing * * *~~said~~ the record.
1821 The findings and decision of the State Health Officer shall not be
1822 deferred to any later date.

1823 (3) Unless a hearing is held, if review by the State
1824 Department of Health concerning the issuance of a certificate of
1825 need is not complete with a final decision issued by the State
1826 Health Officer within the time specified by rule or regulation,
1827 which shall not exceed ninety (90) days from the filing of the
1828 application for a certificate of need, the proponent of the
1829 proposal may, within thirty (30) days after the expiration of the
1830 specified time for review, * * *~~commence~~ begin such legal action
1831 as is necessary, in the Chancery Court of the First Judicial
1832 District of Hinds County or in the chancery court of the county in
1833 which the * * *~~service or~~ facility is proposed to be * * *~~provided~~
1834 operated, to compel the State Health Officer to issue written
1835 findings and written order approving or disapproving the proposal
1836 in question.



1837 **SECTION 10.** Section 41-7-201, Mississippi Code of 1972, is
1838 amended as follows:

1839 41-7-201. (1) The provisions of this subsection (1) shall
1840 apply to any party appealing any final order of the State
1841 Department of Health pertaining to a certificate of need for a
1842 home health agency, as defined in Section 41-7-173(* * *he) (ix):

1843 (a) In addition to other remedies now available at law
1844 or in equity, any party aggrieved by any such final order of the
1845 State Department of Health shall have the right of appeal to the
1846 Chancery Court of the First Judicial District of Hinds County,
1847 Mississippi, which appeal must be filed within thirty (30) days
1848 after the date of the final order. * * *~~Provided,~~
1849 However, * * *~~that~~ any appeal of an order disapproving an
1850 application for such a certificate of need may be made to the
1851 chancery court of the county where the proposed construction,
1852 expansion or alteration was to be located * * *~~or the new service~~
1853 ~~or purpose of the capital expenditure was to be located.~~ Such
1854 appeal must be filed in accordance with the thirty (30) days for
1855 filing as * * *~~heretofore~~ provided in this paragraph. Any appeal
1856 shall state briefly the nature of the proceedings before the State
1857 Department of Health and shall specify the order complained of.
1858 Any appeal shall state briefly the nature of the proceedings
1859 before the State Department of Health and shall specify the order
1860 complained of. Any person whose rights may be materially affected
1861 by the action of the State Department of Health may appear and



1862 become a party or the court may, upon motion, order that any such
1863 person, organization or entity be joined as a necessary party.

1864 (b) Upon the filing of such an appeal, the clerk of the
1865 chancery court shall serve notice thereof upon the State
1866 Department of Health, whereupon the State Department of Health
1867 shall, within thirty (30) days or within such additional time as
1868 the court may by order for cause allow from the service of such
1869 notice, certify to the chancery court the record in the case,
1870 which records shall include a transcript of all testimony,
1871 together with all exhibits or copies thereof, all pleadings,
1872 proceedings, orders, findings and opinions entered in the
1873 case; * * * ~~provided,~~ however, * * * ~~that~~ the parties and the State
1874 Department of Health may stipulate that a specified portion only
1875 of the record shall be certified to the court as the record on
1876 appeal.

1877 (c) The court may dispose of the appeal in termtime or
1878 vacation and may sustain or dismiss the appeal, modify or vacate
1879 the order complained of, in whole or in part, as the case may be;
1880 but in case the order is wholly or partly vacated, the court may
1881 also, in its discretion, remand the matter to the State Department
1882 of Health for such further proceedings, not inconsistent with the
1883 court's order, as, in the opinion of the court, justice may
1884 require. The order shall not be vacated or set aside, either in
1885 whole or in part, except for errors of law, unless the court finds
1886 that the order of the State Department of Health is not supported



1887 by substantial evidence, is contrary to the manifest weight of the
1888 evidence, is in excess of the statutory authority or jurisdiction
1889 of the State Department of Health, or violates any vested
1890 constitutional rights of any party involved in the appeal.

1891 * * * ~~Provided,~~ However, an order of the chancery court reversing
1892 the denial of a certificate of need by the State Department of
1893 Health shall not entitle the applicant to effectuate the
1894 certificate of need until either:

1895 (i) Such order of the chancery court has become
1896 final and has not been appealed to the Supreme Court; or

1897 (ii) The Supreme Court has entered a final order
1898 affirming the chancery court.

1899 (d) Appeals in accordance with law may be had to the
1900 Supreme Court of the State of Mississippi from any final judgment
1901 of the chancery court.

1902 (2) The provisions of this subsection (2) shall apply to any
1903 party appealing any final order of the State Department of Health
1904 pertaining to a certificate of need for any health care facility
1905 as defined in Section 41-7-173(* * * he), with the exception of
1906 any home health agency as defined in Section
1907 41-7-173(* * * he) (ix):

1908 (a) There shall be a "stay of proceedings" of any final
1909 order issued by the State Department of Health pertaining to the
1910 issuance of a certificate of need for the establishment,
1911 construction, expansion or replacement of a health care facility



1912 for a period of thirty (30) days from the date of the order, if an
1913 existing provider located in the same service area where the
1914 health care facility is or will be located has requested a hearing
1915 during the course of review in opposition to the issuance of the
1916 certificate of need. The stay of proceedings shall expire at the
1917 termination of thirty (30) days; however, no construction,
1918 renovation or other capital expenditure that is the subject of the
1919 order shall be undertaken, no license to operate any facility that
1920 is the subject of the order shall be issued by the licensing
1921 agency, and no certification to participate in the Title XVII or
1922 Title XIX programs of the Social Security Act shall be granted,
1923 until all statutory appeals have been exhausted or the time for
1924 such appeals has expired. * * *~~Notwithstanding the foregoing, the~~
1925 ~~filing of an appeal from a final order of the State Department of~~
1926 ~~Health or the chancery court for the issuance of a certificate of~~
1927 ~~need shall not prevent the purchase of medical equipment or~~
1928 ~~development or offering of institutional health services granted~~
1929 ~~in a certificate of need issued by the State Department of Health.~~

1930 (b) In addition to other remedies now available at law
1931 or in equity, any party aggrieved by such final order of the State
1932 Department of Health shall have the right of appeal to the
1933 Chancery Court of the First Judicial District of Hinds County,
1934 Mississippi, which appeal must be filed within twenty (20) days
1935 after the date of the final order. * * *~~Provided,~~
1936 However, * * *~~that~~ any appeal of an order disapproving an



1937 application for such a certificate of need may be made to the
1938 chancery court of the county where the proposed construction,
1939 expansion or alteration was to be located * * * ~~or the new service~~
1940 ~~or purpose of the capital expenditure was to be located.~~ Such
1941 appeal must be filed in accordance with the twenty (20) days for
1942 filing as * * * ~~heretofore~~ provided in this paragraph. Any appeal
1943 shall state briefly the nature of the proceedings before the State
1944 Department of Health and shall specify the order complained of.

1945 (c) Upon the filing of such an appeal, the clerk of the
1946 chancery court shall serve notice thereof upon the State
1947 Department of Health, whereupon the State Department of Health
1948 shall, within thirty (30) days of the date of the filing of the
1949 appeal, certify to the chancery court the record in the case,
1950 which records shall include a transcript of all testimony,
1951 together with all exhibits or copies thereof, all proceedings,
1952 orders, findings and opinions entered in the case; * * * ~~provided,~~
1953 however, * * * ~~that~~ the parties and the State Department of Health
1954 may stipulate that a specified portion only of the record shall be
1955 certified to the court as the record on appeal. The chancery
1956 court shall give preference to any such appeal from a final order
1957 by the State Department of Health in a certificate of need
1958 proceeding, and shall render a final order regarding such appeal
1959 no later than one hundred twenty (120) days from the date of the
1960 final order by the State Department of Health. If the chancery
1961 court has not rendered a final order within this



1962 one-hundred-twenty-day period, then the final order of the State
1963 Department of Health shall be deemed to have been affirmed by the
1964 chancery court, and any party to the appeal shall have the right
1965 to appeal from the chancery court to the Supreme Court on the
1966 record certified by the State Department of Health as otherwise
1967 provided in paragraph (g) of this subsection. * * *~~In the event~~
1968 If the chancery court has not rendered a final order within the
1969 one-hundred-twenty-day period and an appeal is made to the Supreme
1970 Court as provided * * *~~herein~~ in this paragraph, the Supreme Court
1971 shall remand the case to the chancery court to make an award of
1972 costs, fees, reasonable expenses and attorney's fees incurred in
1973 favor of appellee payable by the appellant(s) * * *~~should~~ if the
1974 Supreme Court affirms the order of the State Department of Health.

1975 (d) Any appeal of a final order by the State Department
1976 of Health in a certificate of need proceeding shall require the
1977 giving of a bond by the appellant(s) sufficient to secure the
1978 appellee against the loss of costs, fees, expenses and attorney's
1979 fees incurred in defense of the appeal, approved by the chancery
1980 court within five (5) days of the date of filing the appeal.

1981 (e) No new or additional evidence shall be introduced
1982 in the chancery court but the case shall be determined upon the
1983 record certified to the court.

1984 (f) The court may dispose of the appeal in termtime or
1985 vacation and may sustain or dismiss the appeal, modify or vacate
1986 the order complained of in whole or in part and may make an award



1987 of costs, fees, expenses and attorney's fees, as the case may be;
1988 but in case the order is wholly or partly vacated, the court may
1989 also, in its discretion, remand the matter to the State Department
1990 of Health for such further proceedings, not inconsistent with the
1991 court's order, as, in the opinion of the court, justice may
1992 require. The court, as part of the final order, shall make an
1993 award of costs, fees, reasonable expenses and attorney's fees
1994 incurred in favor of appellee payable by the
1995 appellant(s) * * *~~should~~ if the court affirms the order of the
1996 State Department of Health. The order shall not be vacated or set
1997 aside, either in whole or in part, except for errors of law,
1998 unless the court finds that the order of the State Department of
1999 Health is not supported by substantial evidence, is contrary to
2000 the manifest weight of the evidence, is in excess of the statutory
2001 authority or jurisdiction of the State Department of Health, or
2002 violates any vested constitutional rights of any party involved in
2003 the appeal. * * *~~Provided,~~ However, an order of the chancery
2004 court reversing the denial of a certificate of need by the State
2005 Department of Health shall not entitle the applicant to effectuate
2006 the certificate of need until either:
2007 (i) Such order of the chancery court has become
2008 final and has not been appealed to the Supreme Court; or
2009 (ii) The Supreme Court has entered a final order
2010 affirming the chancery court.



2011 (g) Appeals in accordance with law may be had to the
2012 Supreme Court of the State of Mississippi from any final judgment
2013 of the chancery court.

2014 (h) Within thirty (30) days from the date of a final
2015 order by the Supreme Court or a final order of the chancery court
2016 not appealed to the Supreme Court that modifies or wholly or
2017 partly vacates the final order of the State Department of Health
2018 granting a certificate of need, the State Department of Health
2019 shall issue another order in conformity with the final order of
2020 the Supreme Court, or the final order of the chancery court not
2021 appealed to the Supreme Court.

2022 **SECTION 11.** Section 41-7-202, Mississippi Code of 1972, is
2023 amended as follows:

2024 41-7-202. There shall be a "stay of proceedings" of any
2025 written decision of the State Department of Health pertaining to a
2026 certificate of need for a home health agency, as defined in
2027 Section 41-7-173(* * ~~he~~) (ix), for a period of thirty (30) days
2028 from the date of that decision. The stay of proceedings shall
2029 expire at the termination of thirty (30) days; however, no license
2030 to operate any such home health agency that is the subject of the
2031 decision shall be issued by the licensing agency, and no
2032 certification for such home health agency to participate in the
2033 Title XVIII or Title XIX programs of the Social Security Act shall
2034 be granted until all statutory appeals have been exhausted or the
2035 time for such appeals has expired. The stay of proceedings



2036 provided for in this section shall not apply to any party
2037 appealing any final order of the State Department of Health
2038 pertaining to a certificate of need for any health care facility
2039 as defined in Section 41-7-173(* * *he), with the exception of
2040 any home health agency as defined in Section
2041 41-7-173(* * *he) (ix).

2042 **SECTION 12.** Section 41-7-207, Mississippi Code of 1972, is
2043 amended as follows:

2044 41-7-207. Notwithstanding any other provisions of Sections
2045 41-7-171 through 41-7-209, except when the owner of a damaged
2046 health care facility applies to repair or rebuild the facility in
2047 accordance with the provisions of Section 41-7-191(13), when the
2048 need for any emergency replacement occurs, the certificate of need
2049 review process shall be expedited by promulgation of
2050 administrative procedures for expenditures necessary to alleviate
2051 an emergency condition and restore health care access. Emergency
2052 replacement means the replacement, and/or a necessary relocation,
2053 of all or the damaged part of the facilities * * *~~or equipment the~~
2054 ~~replacement of which is not exempt from certificate of need review~~
2055 ~~under the medical equipment replacement exemption provided in~~
2056 ~~Section 41-7-191(1)(f),~~ without which the operation of the
2057 facility and the health and safety of patients would be
2058 immediately jeopardized and health care access would be denied to
2059 such patients. Expenditures under this section shall be limited
2060 to the replacement of those necessary facilities * * *~~or~~



2061 ~~equipment,~~ the loss of which constitutes an emergency; however, in
2062 the case of the destruction or major damage to a health care
2063 facility, the department shall be authorized to issue a
2064 certificate of need to address the current and future health care
2065 needs of the community, including, but not limited to, the
2066 expansion of the health care facility and/or the relocation of the
2067 health care facility. In exercising the authority granted in this
2068 section, the department may waive all or part of the required
2069 certificate of need application fee for any application filed
2070 under this section if the expenditure would create a further
2071 hardship or undue burden on the health care facility.

2072 **SECTION 13.** Section 41-73-5, Mississippi Code of 1972, is
2073 amended as follows:

2074 41-73-5. When used in this act, unless the context requires
2075 a different definition, the following terms shall have the
2076 following meanings:

2077 (a) "Act" means the Mississippi Hospital Equipment and
2078 Facilities Authority Act.

2079 (b) "Authority" means the Mississippi Hospital
2080 Equipment and Facilities Authority created by this act and any
2081 successor to its functions.

2082 (c) "Bonds" means bonds, notes or other evidences of
2083 indebtedness of the authority issued pursuant to this act,
2084 including refunding bonds.



2085 (d) "Cost" as applied to hospital equipment means any
2086 and all costs of such hospital equipment and, without limiting the
2087 generality of the foregoing, shall include the following:

2088 (i) All costs of the acquisition, repair,
2089 restoration, reconditioning, refinancing or installation of any
2090 such hospital equipment and all costs incident or related thereto;

2091 (ii) The cost of any property interest in such
2092 hospital equipment including an option to purchase or leasehold
2093 interest;

2094 (iii) The cost of architectural, engineering,
2095 legal and related services; the cost of the preparation of plans,
2096 specifications, studies, surveys and estimates of cost and of
2097 revenue; and all other expenses necessary or incident to planning,
2098 providing or determining the need for or the feasibility and
2099 practicability of such hospital equipment; and the cost of
2100 providing or establishing a reasonable reserve fund for the
2101 payment of principal and interest on bonds;

2102 (iv) The cost of financing charges, including
2103 premiums or prepayment penalties, if any, and interest accrued
2104 prior to the acquisition and installation or refinancing of such
2105 hospital equipment and after such acquisition and installation or
2106 refinancing and start-up costs related to hospital equipment;

2107 (v) Any and all costs paid or incurred in
2108 connection with the financing of such hospital equipment,
2109 including out-of-pocket expenses, the cost of financing, legal,



2110 accounting, financial advisory and consulting fees, expenses and
2111 disbursements; the cost of any policy of insurance; the cost of
2112 printing, engraving and reproduction services; and the cost of the
2113 initial or acceptance fee of any trustee or paying agent;

2114 (vi) All direct or indirect costs of the authority
2115 incurred in connection with providing such hospital equipment,
2116 including, without limitation, reasonable sums to reimburse the
2117 authority for time spent by its agents or employees with respect
2118 to providing such hospital equipment and the financing thereof;
2119 and

2120 (vii) Any and all costs paid or incurred for the
2121 administration of any program for the purchase or lease of or the
2122 making of loans for hospital equipment, by the authority and any
2123 program for the sale or lease of or the making of loans for such
2124 hospital equipment to any participating hospital institution.

2125 (e) "Cost," as applied to hospital facilities, means
2126 any and all costs of such hospital facilities and, without
2127 limiting the generality of the foregoing, shall include the
2128 following:

2129 (i) All costs of the establishment, demolition,
2130 site development of new and rehabilitated buildings,
2131 rehabilitation, reconstruction repair, erection, building,
2132 construction, remodeling, adding to and furnishing of any such
2133 hospital facilities and all costs incident or related thereto;



2134 (ii) The cost of acquiring any property interest
2135 in such hospital facilities including the purchase thereof, the
2136 cost of an option to purchase or the cost of any leasehold
2137 interest;

2138 (iii) The cost of architectural, engineering,
2139 legal and related services; the cost of the preparation of plans,
2140 specifications, studies, surveys and estimates of cost and of
2141 revenue; all other expenses necessary or incident to planning,
2142 providing or determining the need for or the feasibility and
2143 practicability of such hospital facilities or the acquisition
2144 thereof; and the cost of providing or establishing a reasonable
2145 reserve fund for the payment of principal of and interest on
2146 bonds;

2147 (iv) The cost of financing charges, including
2148 premiums or prepayment penalties, if any, and interest accrued
2149 prior to the acquisition and completion or refinancing of such
2150 hospital facilities and after such acquisition and completion or
2151 refinancing and start-up costs related to hospital facilities;

2152 (v) Any and all costs paid or incurred in
2153 connection with the financing of such hospital facilities,
2154 including out-of-pocket expenses, the cost of financing, legal,
2155 accounting, financial advisory and consulting fees, expenses and
2156 disbursement; the cost of any policy of insurance; the cost of
2157 printing, engraving and reproduction services; and the cost of the
2158 initial or acceptance fee of any trustee or paying agent;



2159 (vi) All direct or indirect costs of the authority
2160 incurred in connection with providing such hospital facilities,
2161 including, without limitation, reasonable sums to reimburse the
2162 authority for time spent by its agents or employees with respect
2163 to providing such hospital facilities and the financing thereof;

2164 (vii) Any and all costs paid or incurred for the
2165 administration of any program for the purchase or lease of or the
2166 making of loans for hospital facilities, by the authority and any
2167 program for the sale or lease of or the making of loans for such
2168 hospital facilities to any participating hospital institution; and

2169 (viii) The cost of providing for the payment or
2170 the making provision for the payment of, by the appropriate
2171 escrowing of monies or securities, the principal of and interest
2172 on which when due will be adequate to make such payment, any
2173 indebtedness encumbering the revenues or property of a
2174 participating hospital institution, whether such payment is to be
2175 effected by redemption of such indebtedness prior to maturity or
2176 not.

2177 (f) "Hospital equipment" means any personal property
2178 which is found and determined by the authority to be required or
2179 necessary or helpful for medical care, research, training or
2180 teaching, any one (1) or all, in hospital facilities located in
2181 the state, irrespective of whether such property is in existence
2182 at the time of, or is to be provided after the making of, such
2183 finding. * * *~~Provided further, that major medical equipment as~~



2184 ~~defined in Section 41-7-173(n), shall require a certificate of~~
2185 ~~need prior to the approval of the authority to contract with said~~
2186 ~~hospital.~~

2187 (g) "Hospital facility" or "hospital facilities" means
2188 buildings and structures of any and all types used or useful, in
2189 the discretion of the authority, for providing any types of care
2190 to the sick, wounded, infirmed, needy, mentally incompetent or
2191 elderly and shall include, without limiting the generality of the
2192 foregoing, out-patient clinics, laboratories, laundries, nurses',
2193 doctors' or interns' residences, administration buildings, office
2194 buildings, facilities for research directly involved with hospital
2195 care, maintenance, storage or utility facilities, parking lots,
2196 and garages and all necessary, useful, or related furnishings, and
2197 appurtenances and all lands necessary or convenient as a site for
2198 the foregoing.

2199 (h) "Participating hospital institution" or "hospital
2200 institution" means a public or private corporation, association,
2201 foundation, trust, cooperative, agency, body politic, or other
2202 person or organization which provides or operates or proposes to
2203 provide or operate hospital facilities not for profit, and which,
2204 pursuant to the provisions of this act, contracts with the
2205 authority for the financing or refinancing of the lease or other
2206 acquisition of hospital equipment or hospital facilities, or both.

2207 (i) "State" means the State of Mississippi.



2208 The use of singular terms herein shall also include the
2209 plural of such term and the use of a plural term herein shall also
2210 include the singular of such term unless the context clearly
2211 requires a different connotation.

2212 **SECTION 14.** Section 41-75-1, Mississippi Code of 1972, is
2213 amended as follows:

2214 41-75-1. For the purpose of this chapter:

2215 (a) "Ambulatory surgical facility" means a publicly or
2216 privately owned institution that is primarily organized,
2217 constructed, renovated or otherwise established for the purpose of
2218 providing elective surgical treatment of "outpatients" whose
2219 recovery, under normal and routine circumstances, will not require
2220 "inpatient" care. The facility defined in this paragraph does not
2221 include the offices of private physicians or dentists, whether
2222 practicing individually or in groups, but does include
2223 organizations or facilities primarily engaged in that outpatient
2224 surgery, whether using the name "ambulatory surgical facility" or
2225 a similar or different name. That organization or facility, if in
2226 any manner considered to be operated or owned by a hospital or a
2227 hospital holding, leasing or management company, either for profit
2228 or not for profit, is required to comply with all licensing agency
2229 ambulatory surgical licensure standards governing a "hospital
2230 affiliated" facility as adopted under Section 41-9-1 et seq.,
2231 provided that the organization or facility does not intend to seek
2232 federal certification as an ambulatory surgical facility as



2233 provided for at 42 CFR, Parts 405 and 416. If the organization or
2234 facility is to be operated or owned by a hospital or a hospital
2235 holding, leasing or management company and intends to seek federal
2236 certification as an ambulatory facility, then the facility is
2237 considered to be "freestanding" and must comply with all licensing
2238 agency ambulatory surgical licensure standards governing a
2239 "freestanding" facility.

2240 If the organization or facility is to be owned or operated by
2241 an entity or person other than a hospital or hospital holding,
2242 leasing or management company, then the organization or facility
2243 must comply with all licensing agency ambulatory surgical facility
2244 standards governing a "freestanding" facility.

2245 (b) "Hospital affiliated" ambulatory surgical facility
2246 means a separate and distinct organized unit of a hospital or a
2247 building owned, leased, rented or utilized by a hospital and
2248 located in the same county in which the hospital is located, for
2249 the primary purpose of performing ambulatory surgery procedures.
2250 The facility is not required to be separately licensed under this
2251 chapter and may operate under the hospital's license in compliance
2252 with all applicable requirements of Section 41-9-1 et seq.

2253 (c) "Freestanding" ambulatory surgical facility means a
2254 separate and distinct facility or a separate and distinct
2255 organized unit of a hospital owned, leased, rented or utilized by
2256 a hospital or other persons for the primary purpose of performing
2257 ambulatory surgery procedures. The facility must be separately



2258 licensed as defined in this section and must comply with all
2259 licensing standards promulgated by the licensing agency under this
2260 chapter regarding a "freestanding" ambulatory surgical facility.
2261 Further, the facility must be a separate, identifiable entity and
2262 must be physically, administratively and financially independent
2263 and distinct from other operations of any other health facility,
2264 and shall maintain a separate organized medical and administrative
2265 staff. * * *~~Furthermore, once licensed as a "freestanding"~~
2266 ~~ambulatory surgical facility, the facility shall not become a~~
2267 ~~component of any other health facility without securing a~~
2268 ~~certificate of need to do that.~~

2269 (d) "Ambulatory surgery" means surgical procedures that
2270 are more complex than office procedures performed under local
2271 anesthesia, but less complex than major procedures requiring
2272 prolonged postoperative monitoring and hospital care to ensure
2273 safe recovery and desirable results. General anesthesia is used
2274 in most cases. The patient must arrive at the facility and expect
2275 to be discharged on the same day. Ambulatory surgery shall only
2276 be performed by physicians or dentists licensed to practice in the
2277 State of Mississippi.

2278 (e) "Abortion" means the use or prescription of any
2279 instrument, medicine, drug or any other substances or device to
2280 terminate the pregnancy of a woman known to be pregnant with an
2281 intention other than to increase the probability of a live birth,
2282 to preserve the life or health of the child after live birth or to



2283 remove a dead fetus. Abortion procedures after the first
2284 trimester shall only be performed at a Level I abortion facility
2285 or an ambulatory surgical facility or hospital licensed to perform
2286 that service.

2287 (f) "Abortion facility" means a facility operating
2288 substantially for the purpose of performing abortions and is a
2289 separate identifiable legal entity from any other health care
2290 facility. Abortions shall only be performed by physicians
2291 licensed to practice in the State of Mississippi. All physicians
2292 associated with the abortion facility must have admitting
2293 privileges at a local hospital and staff privileges to replace
2294 local hospital on-staff physicians. All physicians associated
2295 with an abortion facility must be board certified or eligible in
2296 obstetrics and gynecology, and a staff member trained in CPR shall
2297 always be present at the abortion facility when it is open. The
2298 term "abortion facility" includes physicians' offices that are
2299 used substantially for the purpose of performing abortions. An
2300 abortion facility operates substantially for the purpose of
2301 performing abortions if any of the following conditions are met:

2302 (i) The abortion facility is a provider for
2303 performing ten (10) or more abortion procedures per calendar month
2304 during any month of a calendar year, or one hundred (100) or more
2305 in a calendar year.

2306 (ii) The abortion facility, if operating less than
2307 twenty (20) days per calendar month, is a provider for performing



2308 ten (10) or more abortion procedures, or performing a number of
2309 abortion procedures that would be equivalent to ten (10)
2310 procedures per month, if the facility were operating twenty (20)
2311 or more days per calendar month, in any month of a calendar year.

2312 (iii) The abortion facility holds itself out to
2313 the public as an abortion provider by advertising by any public
2314 means, such as newspaper, telephone directory, magazine or
2315 electronic media, that it performs abortions.

2316 (iv) The facility applies to the licensing agency
2317 for licensure as an abortion facility.

2318 (g) "Licensing agency" means the State Department of
2319 Health.

2320 (h) "Operating" an abortion facility means that the
2321 facility is open for any period of time during a day and has on
2322 site at the facility or on call a physician licensed to practice
2323 in the State of Mississippi available to provide abortions.

2324 An abortion facility may apply to be licensed as a Level I
2325 facility or a Level II facility by the licensing agency. Level II
2326 abortion facilities shall be required to meet minimum standards
2327 for abortion facilities as established by the licensing agency.
2328 Level I abortion facilities shall be required to meet minimum
2329 standards for abortion facilities and minimum standards for
2330 ambulatory surgical facilities as established by the licensing
2331 agency.



2332 Any abortion facility that begins operation after June 30,
2333 1996, shall not be located within one thousand five hundred
2334 (1,500) feet from the property on which any church, school or
2335 kindergarten is located. An abortion facility shall not be in
2336 violation of this paragraph if it is in compliance with this
2337 paragraph on the date it begins operation and the property on
2338 which a church, school or kindergarten is located within one
2339 thousand five hundred (1,500) feet from the facility.

2340 (i) "Freestanding emergency room" is a facility open
2341 twenty-four (24) hours a day for the treatment of urgent and
2342 emergent medical conditions which is not located on a hospital
2343 campus. In order to be eligible for licensure under this chapter,
2344 the freestanding emergency room shall be located at least fifteen
2345 (15) miles from the nearest hospital-based emergency room in any
2346 rural community where the federal CMMS had previously designated a
2347 rural hospital as a critical access hospital and that designation
2348 has been revoked.

2349 (j) "Post-acute residential brain injury rehabilitation
2350 facility" is a facility containing no more than twelve (12) beds
2351 providing medically directed long-term but nonacute rehabilitation
2352 to patients who have acquired brain injury. In order to be
2353 eligible for licensure under this chapter, the post-acute
2354 residential brain injury rehabilitation facility shall be located
2355 at least twenty-five (25) miles from the nearest acute care
2356 rehabilitation hospital and at least five (5) miles from the



2357 boundaries of any municipality having a population of ten thousand
2358 (10,000) or more, according to the most recent federal decennial
2359 census, at the time that facility is established.

2360 **SECTION 15.** Section 41-75-5, Mississippi Code of 1972, is
2361 amended as follows:

2362 41-75-5. No person * * *~~as defined in Section 41-7-173,~~ or
2363 other entity, acting severally or jointly with any other person or
2364 entity, shall establish, conduct, operate or maintain an
2365 ambulatory surgical facility or an abortion facility or a
2366 freestanding emergency room or a post-acute residential brain
2367 injury rehabilitation facility in this state without a license
2368 under this chapter.

2369 In order to receive a license for a post-acute residential
2370 brain injury rehabilitation facility under this chapter, the
2371 recipient of the license must agree in writing that the facility
2372 will not at any time participate in the Medicaid program (Section
2373 43-13-101 et seq.) or admit or keep any patients in the facility
2374 who are participating in the Medicaid program. This written
2375 agreement by the recipient of the license shall be fully binding
2376 on any later owner of the facility, if the ownership of the
2377 facility is transferred at any time after the issuance of the
2378 license. Agreement that the facility will not participate in the
2379 Medicaid program shall be a condition of the issuance of a license
2380 for a post-acute residential brain injury rehabilitation facility
2381 to any person under this chapter, and if such facility at any time



2382 after the issuance of the license, regardless of the ownership of
2383 the facility, participates in the Medicaid program or admits or
2384 keeps any patients in the facility who are participating in the
2385 Medicaid program, the licensing agency shall revoke the license of
2386 the facility, at the time that the department determines, after a
2387 hearing complying with due process, that the facility has failed
2388 to comply with any of the conditions upon which the license was
2389 issued, as provided in this section and in the written agreement
2390 by the recipient of the license.

2391 **SECTION 16.** Section 41-75-9, Mississippi Code of 1972, is
2392 amended as follows:

2393 41-75-9. Upon receipt of an application for license and the
2394 license fee, the licensing agency shall issue a license if the
2395 applicant and the institutional facilities meet the requirements
2396 established under this chapter * * *~~and the requirements of~~
2397 ~~Section 41-7-173 et seq. where determined by the licensing agency~~
2398 ~~to be applicable.~~ A license, unless suspended or revoked, shall
2399 be renewable annually upon payment of a renewal fee of Three
2400 Thousand Dollars (\$3,000.00), which shall be paid to the licensing
2401 agency, and upon filing by the licensee and approval by the
2402 licensing agency of an annual report upon such uniform dates and
2403 containing such information in such form as the licensing agency
2404 requires. Each license shall be issued only for the premises and
2405 person or persons named in the application and shall not be



2406 transferable or assignable. Licenses shall be posted in a
2407 conspicuous place on the licensed premises.

2408 **SECTION 17.** Section 41-75-25, Mississippi Code of 1972, is
2409 amended as follows:

2410 41-75-25. Any person or persons or other entity or entities
2411 establishing, managing or operating an ambulatory surgical
2412 facility or conducting the business of an ambulatory surgical
2413 facility without the required license, or which otherwise violate
2414 any of the provisions of this chapter * * * ~~or the "Mississippi~~
2415 ~~Health Care Commission Law of 1979," as amended,~~ or the rules,
2416 regulations or standards promulgated in furtherance of any law in
2417 which the * * * ~~commission~~ licensing agency has authority therefor
2418 shall be subject to the following penalties and sanctions * * * ~~of~~
2419 ~~Section 41-7-209, Mississippi Code of 1972.~~ :

2420 (a) Revocation of the license of the ambulatory
2421 surgical facility or a designated section, component or service
2422 thereof; or

2423 (b) Nonlicensure of a specific or designated service
2424 offered by the ambulatory surgical facility.

2425 In addition, any violation of any provision of this chapter
2426 or any rules or regulations promulgated in furtherance of this
2427 chapter by intent, fraud, deceit, unlawful design, willful and/or
2428 deliberate misrepresentation, or by careless, negligent or
2429 incautious disregard for those statutes or rules and regulations,
2430 either by persons acting individually or in concert with others,



2431 is a misdemeanor and shall be punishable by a fine not to exceed
2432 One Thousand Dollars (\$1,000.00) for each such offense. Each day
2433 of continuing violation shall be considered a separate offense.
2434 The venue for prosecution of any such violation shall be in any
2435 county of the state in which any such violation, or portion
2436 thereof, occurred.

2437 **SECTION 18.** This act shall take effect and be in force from
2438 and after July 1, 2018.

