MISSISSIPPI LEGISLATURE
REGULAR SESSION 2018

By: Representative Brown
To: Medicaid

HOUSE BILL NO. 1174

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

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

SECTION 1. This act shall be known and may be cited as the

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

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

(a) "Affected person" means (i) the applicant; (ii) a
person residing within the geographic area to be served by the
applicant's proposal; (iii) a person who regularly uses health
care facilities or HMOs located in the geographic area of the proposal which provide similar service to that which is proposed; (iv) health care facilities and HMOs which have, prior to receipt of the application under review, formally indicated an intention to provide service similar to that of the proposal being considered at a future date; (v) third-party payers who reimburse health care facilities located in the geographical area of the proposal; or (vi) any agency that establishes rates for health care services or HMOs located in the geographic area of the proposal.

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

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

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

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

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

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

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

* * *

(* * *e) "Health care facility" includes hospitals,
psychiatric hospitals, chemical dependency hospitals, skilled
nursing facilities, * * * intermediate care facilities, * * *
intermediate care facilities for the * * * intellectually
disabled, home health agencies, psychiatric residential treatment
facilities, pediatric skilled nursing facilities, long-term care hospitals, comprehensive medical rehabilitation facilities, including facilities owned or operated by the state or a political subdivision or instrumentality of the state, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts. This definition shall not apply to facilities for the private practice, either independently or by incorporated medical groups, of physicians, dentists or health care professionals except where such facilities are an integral part of an institutional health service. The various health care facilities listed in this paragraph shall be defined as follows:

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

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

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

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

(v) * * * [Deleted]

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

(vii) * * * [Deleted]

(viii) "Intermediate care facility for the * * *
intellectually disabled" means an intermediate care facility that
provides health or rehabilitative services in a planned program of
activities to persons with an intellectual disability, also
including, but not limited to, cerebral palsy and other conditions
covered by the Federal Developmentally Disabled Assistance and
Bill of Rights Act, Public Law 94-103.
"Home health agency" means a public or privately owned agency or organization, or a subdivision of such an agency or organization, properly authorized to conduct business in Mississippi, which is primarily engaged in providing to individuals at the written direction of a licensed physician, in the individual's place of residence, skilled nursing services provided by or under the supervision of a registered nurse licensed to practice in Mississippi, and one or more of the following services or items:

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

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

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

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

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

2. An inability to build or maintain satisfactory relationships with peers and teachers;
3. Inappropriate types of behavior or feelings under normal circumstances;

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

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

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

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

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

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

2. Emphasizes education and training of individuals with disabilities;

3. Incorporates at least the following core disciplines:

   * * *a. Physical Therapy;

   * * *b. Occupational Therapy;

   * * *c. Speech and Language Therapy;

   * * *d. Rehabilitation Nursing; and

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

   * * *a. Psychology;

   * * *b. Audiology;
These specialized programs include, but are not limited to:

spinal cord injury programs, head injury programs and infant and early childhood development programs.

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

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

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

(iii) Provides physician services primarily:
1. Directly through physicians who are either employees or partners of such organization; or
2. Through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(g) "Health service area" means a geographic area of the state designated in the State Health Plan as the area to be used in planning for specified health care facilities and to provide health care facilities.

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

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

(j) "Provider" shall mean any person who is a provider or representative of a provider of health care requiring a certificate of need under Section 41-7-171 et seq., or who has any financial or indirect interest in any provider of health care.
( * * *k) "Secretary" means the Secretary of Health and Human Services, and any officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

(c) Any change in the existing bed complement of any health care facility through the addition or conversion of any beds; however, if a health care facility has voluntarily delicensed some of its existing bed complement, it may later relicense some or all of its delicensed beds without the necessity
of having to acquire a certificate of need. The State Department of Health shall maintain a record of the delicensing health care facility and its voluntarily delicensed beds and continue counting those beds as part of the state's total bed count for health care planning purposes. If a health care facility that has voluntarily delicensed some of its beds later desires to relicense some or all of its voluntarily delicensed beds, it shall notify the State Department of Health of its intent to increase the number of its licensed beds. The State Department of Health shall survey the health care facility within thirty (30) days of that notice and, if appropriate, issue the health care facility a new license reflecting the new contingent of beds. However, in no event may a health care facility that has voluntarily delicensed some of its beds be reissued a license to operate beds in excess of its bed count before the voluntary delicensure of some of its beds without seeking certificate of need approval;

* * *

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

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

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

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

(a) The department may issue a certificate of need to any person proposing the new construction of any health care facility defined in subparagraphs (iv) and (vi) of Section 41-7-173(h) as part of a life care retirement facility, in any county bordering on the Gulf of Mexico in which is located a National Aeronautics and Space Administration facility, not to exceed forty (40) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the health care facility that were authorized under this paragraph (a).
(b) The department may issue certificates of need in Harrison County to provide skilled nursing home care for Alzheimer's disease patients and other patients, not to exceed one hundred fifty (150) beds. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et seq.) for the beds in the nursing facilities that were authorized under this paragraph (b).

(c) The department may issue a certificate of need for the addition to or expansion of any skilled nursing facility that is part of an existing continuing care retirement community located in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (c), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or
admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of beds that may be authorized under the authority of this paragraph (c) shall not exceed sixty (60) beds.

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

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

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

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

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

(i) The department may issue a certificate of need for the new construction of a skilled nursing facility in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (i), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the
conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The provision of Section 41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (i) shall not exceed sixty (60) beds. If the skilled nursing facility authorized by the certificate of need issued under this paragraph is not constructed and fully operational within eighteen (18) months after July 1, 1994, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need, if it is still outstanding, and shall not issue a license for the skilled nursing facility at any time after the expiration of the eighteen-month period.

(j) The department may issue certificates of need to allow any existing freestanding long-term care facility in Tishomingo County and Hancock County that on July 1, 1995, is licensed with fewer than sixty (60) beds. For the purposes of this paragraph (j), the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived. From and after July 1, 1999, there shall be no prohibition or restrictions on participation in the Medicaid program (Section 43-13-101 et
(k) The department may issue a certificate of need for the construction of a nursing facility at a continuing care retirement community in Lowndes County. The total number of beds that may be authorized under the authority of this paragraph (k) shall not exceed sixty (60) beds. From and after July 1, 2001, the prohibition on the facility participating in the Medicaid program (Section 43-13-101 et seq.) that was a condition of issuance of the certificate of need under this paragraph (k) shall be revised as follows: The nursing facility may participate in the Medicaid program from and after July 1, 2001, if the owner of the facility on July 1, 2001, agrees in writing that no more than thirty (30) of the beds at the facility will be certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for more than thirty (30) patients in the facility in any month or for any patient in the facility who is in a bed that is not Medicaid-certified. This written agreement by the owner of the facility shall be a condition of licensure of the facility, and the agreement shall be fully binding on any subsequent owner of the facility if the ownership of the facility is transferred at any time after July 1, 2001. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the facility for participation in
the Medicaid program. If the facility violates the terms of the
written agreement by admitting or keeping in the facility on a
regular or continuing basis more than thirty (30) patients who are
participating in the Medicaid program, the State Department of
Health shall revoke the license of the facility, at the time that
the department determines, after a hearing complying with due
process, that the facility has violated the written agreement.

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

(m) The State Department of Health may issue a
certificate of need to a county-owned hospital in the Second
Judicial District of Panola County for the conversion of not more
than seventy-two (72) hospital beds to nursing facility beds,
provided that the recipient of the certificate of need agrees in
writing that none of the beds at the nursing facility will be
certified for participation in the Medicaid program (Section
43-13-101 et seq.), and that no claim will be submitted for
Medicaid reimbursement in the nursing facility in any day or for any patient in the nursing facility. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the nursing facility if the ownership of the nursing facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify any of the beds in the nursing facility for participation in the Medicaid program. If the nursing facility violates the terms of the written agreement by admitting or keeping in the nursing facility on a regular or continuing basis any patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the nursing facility, at the time that the department determines, after a hearing complying with due process, that the nursing facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 2001, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing
facility beds has not commenced within eighteen (18) months after July 1, 2001, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(n) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Madison County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (n), and if such skilled nursing facility at any time
after the issuance of the certificate of need, regardless of the
ownership of the facility, participates in the Medicaid program or
admits or keeps any patients in the facility who are participating
in the Medicaid program, the State Department of Health shall
revoke the certificate of need, if it is still outstanding, and
shall deny or revoke the license of the skilled nursing facility,
at the time that the department determines, after a hearing
complying with due process, that the facility has failed to comply
with any of the conditions upon which the certificate of need was
issued, as provided in this paragraph and in the written agreement
by the recipient of the certificate of need. The total number of
nursing facility beds that may be authorized by any certificate of
need issued under this paragraph (n) shall not exceed sixty (60)
beds. If the certificate of need authorized under this paragraph
is not issued within twelve (12) months after July 1, 1998, the
department shall deny the application for the certificate of need
and shall not issue the certificate of need at any time after the
twelve-month period, unless the issuance is contested. If the
certificate of need is issued and substantial construction of the
nursing facility beds has not commenced within eighteen (18)
months after July 1, 1998, the State Department of Health, after a
hearing complying with due process, shall revoke the certificate
of need if it is still outstanding, and the department shall not
issue a license for the nursing facility at any time after the
eighteen-month period. However, if the issuance of the
certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(o) The department may issue a certificate of need for the new construction, addition or conversion of skilled nursing facility beds in Leake County, provided that the recipient of the certificate of need agrees in writing that the skilled nursing facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the skilled nursing facility who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the skilled nursing facility, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the skilled nursing facility will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this paragraph (o), and if such skilled nursing facility at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the skilled nursing facility,
at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this paragraph and in the written agreement by the recipient of the certificate of need. The total number of nursing facility beds that may be authorized by any certificate of need issued under this paragraph (o) shall not exceed sixty (60) beds. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 2001, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 2001, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

(p) The department may issue a certificate of need for the construction of a municipally owned nursing facility within
the Town of Belmont in Tishomingo County, not to exceed sixty (60)
beds, provided that the recipient of the certificate of need
agrees in writing that the skilled nursing facility will not at
any time participate in the Medicaid program (Section 43-13-101 et
seq.) or admit or keep any patients in the skilled nursing
facility who are participating in the Medicaid program. This
written agreement by the recipient of the certificate of need
shall be fully binding on any subsequent owner of the skilled
nursing facility, if the ownership of the facility is transferred
at any time after the issuance of the certificate of need.
Agreement that the skilled nursing facility will not participate
in the Medicaid program shall be a condition of the issuance of a
certificate of need to any person under this paragraph (p), and if
such skilled nursing facility at any time after the issuance of
the certificate of need, regardless of the ownership of the
facility, participates in the Medicaid program or admits or keeps
any patients in the facility who are participating in the Medicaid
program, the State Department of Health shall revoke the
certificate of need, if it is still outstanding, and shall deny or
revoke the license of the skilled nursing facility, at the time
that the department determines, after a hearing complying with due
process, that the facility has failed to comply with any of the
conditions upon which the certificate of need was issued, as
provided in this paragraph and in the written agreement by the
recipient of the certificate of need. The provision of Section
41-7-193(1) regarding substantial compliance of the projection of need as reported in the current State Health Plan is waived for the purposes of this paragraph. If the certificate of need authorized under this paragraph is not issued within twelve (12) months after July 1, 1998, the department shall deny the application for the certificate of need and shall not issue the certificate of need at any time after the twelve-month period, unless the issuance is contested. If the certificate of need is issued and substantial construction of the nursing facility beds has not commenced within eighteen (18) months after July 1, 1998, the State Department of Health, after a hearing complying with due process, shall revoke the certificate of need if it is still outstanding, and the department shall not issue a license for the nursing facility at any time after the eighteen-month period. However, if the issuance of the certificate of need is contested, the department shall require substantial construction of the nursing facility beds within six (6) months after final adjudication on the issuance of the certificate of need.

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

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

(iii) Subject to the provisions of subparagraph (v), the certificate of need issued under subparagraph (ii) for nursing facility beds in each Long-Term Care Planning District during each fiscal year shall first be available for nursing facility beds in the county in the district having the highest need for those beds, as shown in the fiscal year 1999 State Health Plan. If there are no applications for a certificate of need for nursing facility beds in the county having the highest need for those beds by the date specified by the department, then the certificate of need shall be available for nursing facility beds in other counties in the district in descending order of the need for those beds, from the county with the second highest need to the county with the lowest need, until an application is received for nursing facility beds in an eligible county in the district.

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

(v) If a certificate of need is authorized to be
issued under this paragraph (q) for nursing facility beds in a
county on the basis of the need in the Long-Term Care Planning
District during any fiscal year of the four-year period, a
certificate of need shall not also be available under this
paragraph (q) for additional nursing facility beds in that county
on the basis of the need in the state at large, and that county
shall be excluded in determining which counties have the highest
need for nursing facility beds in the state at large for that
fiscal year. After a certificate of need has been issued under
this paragraph (q) for nursing facility beds in a county during
any fiscal year of the four-year period, a certificate of need
shall not be available again under this paragraph (q) for
additional nursing facility beds in that county during the
four-year period, and that county shall be excluded in determining
which counties have the highest need for nursing facility beds in succeeding fiscal years.

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

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

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

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

(ii) Not more than twenty (20) beds may be authorized by any certificate of need issued under this paragraph (r), and not more than a total of sixty (60) beds may be authorized in any Long-Term Care Planning District by all certificates of need issued under this paragraph (r). However, the total number of beds that may be authorized by all certificates of need issued under this paragraph (r) during any fiscal year shall not exceed one hundred twenty (120) beds, and the total number of beds that may be authorized in any Long-Term Care Planning District during any fiscal year shall not exceed forty (40) beds. Of the certificates of need that are issued for each Long-Term Care Planning District during the next two (2) fiscal years, at least one (1) shall be issued for beds in the northern part of the district, at least one (1) shall be issued for beds in the central part of the district, and at least one (1) shall be issued for beds in the southern part of the district.

(iii) The State Department of Health, in consultation with the Department of Mental Health and the Division of Medicaid, shall develop and prescribe the staffing levels, space requirements and other standards and requirements that must be met with regard to the nursing facility beds authorized under this paragraph (r) to provide care exclusively to patients with Alzheimer's disease.
(s) The State Department of Health may issue a certificate of need to a nonprofit skilled nursing facility using the Green House model of skilled nursing care and located in Yazoo City, Yazoo County, Mississippi, for the construction, expansion or conversion of not more than nineteen (19) nursing facility beds. For purposes of this paragraph (s), the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan and the provisions of Section 41-7-197 requiring a formal certificate of need hearing process are waived. There shall be no prohibition or restrictions on participation in the Medicaid program for the person receiving the certificate of need authorized under this paragraph (s).

(t) The State Department of Health shall issue certificates of need to the owner of a nursing facility in operation at the time of Hurricane Katrina in Hancock County that was not operational on December 31, 2005, because of damage sustained from Hurricane Katrina to authorize the following: (i) the construction of a new nursing facility in Harrison County; (ii) the relocation of forty-nine (49) nursing facility beds from the Hancock County facility to the new Harrison County facility; (iii) the establishment of not more than twenty (20) non-Medicaid nursing facility beds at the Hancock County facility; and (iv) the establishment of not more than twenty (20) non-Medicaid beds at the new Harrison County facility. The certificates of need that
authorize the non-Medicaid nursing facility beds under subparagraphs (iii) and (iv) of this paragraph (t) shall be subject to the following conditions: The owner of the Hancock County facility and the new Harrison County facility must agree in writing that no more than fifty (50) of the beds at the Hancock County facility and no more than forty-nine (49) of the beds at the Harrison County facility will be certified for participation in the Medicaid program, and that no claim will be submitted for Medicaid reimbursement for more than fifty (50) patients in the Hancock County facility in any month, or for more than forty-nine (49) patients in the Harrison County facility in any month, or for any patient in either facility who is in a bed that is not Medicaid-certified. This written agreement by the owner of the nursing facilities shall be a condition of the issuance of the certificates of need under this paragraph (t), and the agreement shall be fully binding on any later owner or owners of either facility if the ownership of either facility is transferred at any time after the certificates of need are issued. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifty (50) of the beds at the Hancock County facility or more than forty-nine (49) of the beds at the Harrison County facility for participation in the Medicaid program. If the Hancock County facility violates the terms of the written agreement by admitting or keeping on a regular or continuing basis more than fifty (50)
patients who are participating in the Medicaid program, or if the Harrison County facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than forty-nine (49) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility that is in violation of the agreement, at the time that the department determines, after a hearing complying with due process, that the facility has violated the agreement.

(u) The State Department of Health shall issue a certificate of need to a nonprofit venture for the establishment, construction and operation of a skilled nursing facility of not more than sixty (60) beds to provide skilled nursing care for ventilator dependent or otherwise medically dependent pediatric patients who require medical and nursing care or rehabilitation services to be located in a county in which an academic medical center and a children's hospital are located, and for any construction and for the acquisition of equipment related to those beds. The facility shall be authorized to keep such ventilator dependent or otherwise medically dependent pediatric patients beyond age twenty-one (21) in accordance with regulations of the State Board of Health. For purposes of this paragraph (u), the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived, and the provisions of Section 41-7-197...
requiring a formal certificate of need hearing process are waived.

The beds authorized by this paragraph shall be counted as pediatric skilled nursing facility beds for health planning purposes under Section 41-7-171 et seq. There shall be no prohibition of or restrictions on participation in the Medicaid program for the person receiving the certificate of need authorized by this paragraph.

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

(a) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a privately owned psychiatric residential treatment facility in Simpson County for the conversion of sixteen (16) intermediate care facility for the * * * intellectually disabled (ICF-ID) beds to psychiatric residential treatment facility beds, provided that facility agrees in writing that the facility shall give priority for the use of those sixteen (16) beds to Mississippi residents who are presently being treated in out-of-state facilities.
(b) Of the total number of beds authorized under this subsection, the department may issue a certificate or certificates of need for the construction or expansion of psychiatric residential treatment facility beds or the conversion of other beds to psychiatric residential treatment facility beds in Warren County, not to exceed sixty (60) psychiatric residential treatment facility beds, provided that the facility agrees in writing that no more than thirty (30) of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.) for the use of any patients other than those who are participating only in the Medicaid program of another state, and that no claim will be submitted to the Division of Medicaid for Medicaid reimbursement for more than thirty (30) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than thirty (30) of the beds in the psychiatric residential
treatment facility for participation in the Medicaid program for the use of any patients other than those who are participating only in the Medicaid program of another state. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than thirty (30) patients who are participating in the Mississippi Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was issued, as provided in this paragraph and in the written agreement.

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

(c) Of the total number of beds authorized under this subsection, the department shall issue a certificate of need to a hospital currently operating Medicaid-certified acute psychiatric beds for adolescents in DeSoto County, for the establishment of a forty-bed psychiatric residential treatment facility in DeSoto County, provided that the hospital agrees in writing (i) that the hospital shall give priority for the use of those forty (40) beds to Mississippi residents who are presently being treated in out-of-state facilities, and (ii) that no more than fifteen (15)
of the beds at the psychiatric residential treatment facility will be certified for participation in the Medicaid program (Section 43-13-101 et seq.), and that no claim will be submitted for Medicaid reimbursement for more than fifteen (15) patients in the psychiatric residential treatment facility in any day or for any patient in the psychiatric residential treatment facility who is in a bed that is not Medicaid-certified. This written agreement by the recipient of the certificate of need shall be a condition of the issuance of the certificate of need under this paragraph, and the agreement shall be fully binding on any subsequent owner of the psychiatric residential treatment facility if the ownership of the facility is transferred at any time after the issuance of the certificate of need. After this written agreement is executed, the Division of Medicaid and the State Department of Health shall not certify more than fifteen (15) of the beds in the psychiatric residential treatment facility for participation in the Medicaid program. If the psychiatric residential treatment facility violates the terms of the written agreement by admitting or keeping in the facility on a regular or continuing basis more than fifteen (15) patients who are participating in the Medicaid program, the State Department of Health shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has violated the condition upon which the certificate of need was
issued, as provided in this paragraph and in the written agreement.

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

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

(f) The department shall issue a certificate of need to a one-hundred-thirty-four-bed specialty hospital located on twenty-nine and forty-four one-hundredths (29.44) commercial acres at 5900 Highway 39 North in Meridian (Lauderdale County), Mississippi, for the addition, construction or expansion of child/adolescent psychiatric residential treatment facility beds in Lauderdale County. As a condition of issuance of the
certificate of need under this paragraph, the facility shall give
priority in admissions to the child/adolescent psychiatric
residential treatment facility beds authorized under this
paragraph to patients who otherwise would require out-of-state
placement. The Division of Medicaid, in conjunction with the
Department of Human Services, shall furnish the facility a list of
all out-of-state patients on a quarterly basis. Furthermore,
notice shall also be provided to the parent, custodial parent or
guardian of each out-of-state patient notifying them of the
priority status granted by this paragraph. For purposes of this
paragraph, the provisions of Section 41-7-193(1) requiring
substantial compliance with the projection of need as reported in
the current State Health Plan are waived. The total number of
child/adolescent psychiatric residential treatment facility beds
that may be authorized under the authority of this paragraph shall
be sixty (60) beds. There shall be no prohibition or restrictions
on participation in the Medicaid program (Section 43-13-101 et
seq.) for the person receiving the certificate of need authorized
under this paragraph or for the beds converted pursuant to the
authority of that certificate of need.

(4) (a) From and after July 1, 1993, the department shall
not issue a certificate of need to any person for the new
construction of any hospital, psychiatric hospital or chemical
dependency hospital that will contain any child/adolescent
psychiatric or child/adolescent chemical dependency beds, or for
the conversion of any other health care facility to a hospital, psychiatric hospital or chemical dependency hospital that will contain any child/adolescent psychiatric or child/adolescent chemical dependency beds, or for the addition of any child/adolescent psychiatric or child/adolescent chemical dependency beds in any hospital, psychiatric hospital or chemical dependency hospital, or for the conversion of any beds of another category in any hospital, psychiatric hospital or chemical dependency hospital to child/adolescent psychiatric or child/adolescent chemical dependency beds, except as hereinafter authorized:

(i) The department may issue certificates of need to any person for any purpose described in this subsection, provided that the hospital, psychiatric hospital or chemical dependency hospital does not participate in the Medicaid program (Section 43-13-101 et seq.) at the time of the application for the certificate of need and the owner of the hospital, psychiatric hospital or chemical dependency hospital agrees in writing that the hospital, psychiatric hospital or chemical dependency hospital will not at any time participate in the Medicaid program or admit or keep any patients who are participating in the Medicaid program in the hospital, psychiatric hospital or chemical dependency hospital. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital, psychiatric hospital or chemical dependency hospital.
hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the hospital, psychiatric hospital or chemical dependency hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (i), and if such hospital, psychiatric hospital or chemical dependency hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the hospital, psychiatric hospital or chemical dependency hospital who are participating in the Medicaid program, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital, psychiatric hospital or chemical dependency hospital, at the time that the department determines, after a hearing complying with due process, that the hospital, psychiatric hospital or chemical dependency hospital has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph (i) and in the written agreement by the recipient of the certificate of need.

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

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

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

(iv) The department shall issue a certificate of
need to the Region 7 Mental Health/Retardation Commission for the
construction or expansion of child/adolescent psychiatric beds or
the conversion of other beds to child/adolescent psychiatric beds
in any of the counties served by the commission. For purposes of
this subparagraph (iv), the provisions of Section 41-7-193(1)
requiring substantial compliance with the projection of need as
reported in the current State Health Plan are waived. The total
number of beds that may be authorized under the authority of this
subparagraph shall not exceed twenty (20) beds. There shall be no
prohibition or restrictions on participation in the Medicaid
program (Section 43-13-101 et seq.) for the person receiving the
certificate of need authorized under this subparagraph or for the
beds converted pursuant to the authority of that certificate of
need.
(v) The department may issue a certificate of need to any county hospital located in Leflore County for the construction or expansion of adult psychiatric beds or the conversion of other beds to adult psychiatric beds, not to exceed twenty (20) beds, provided that the recipient of the certificate of need agrees in writing that the adult psychiatric beds will not at any time be certified for participation in the Medicaid program and that the hospital will not admit or keep any patients who are participating in the Medicaid program in any of such adult psychiatric beds. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the hospital if the ownership of the hospital is transferred at any time after the issuance of the certificate of need. Agreement that the adult psychiatric beds will not be certified for participation in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subparagraph (v), and if such hospital at any time after the issuance of the certificate of need, regardless of the ownership of the hospital, has any of such adult psychiatric beds certified for participation in the Medicaid program or admits or keeps any Medicaid patients in such adult psychiatric beds, the State Department of Health shall revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the hospital at the time that the department determines, after a hearing complying with due process, that the hospital has failed
to comply with any of the conditions upon which the certificate of need was issued, as provided in this subparagraph and in the written agreement by the recipient of the certificate of need.

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

(b) From and after July 1, 1990, no hospital, psychiatric hospital or chemical dependency hospital shall be authorized to add any child/adolescent psychiatric or child/adolescent chemical dependency beds or convert any beds of another category to child/adolescent psychiatric or child/adolescent chemical dependency beds without a certificate of need under the authority of subsection (1)(c) of this section.
(5) The department may issue a certificate of need to a county hospital in Winston County for the conversion of fifteen (15) acute care beds to geriatric psychiatric care beds.

(6) The State Department of Health shall issue a certificate of need to a Mississippi corporation qualified to manage a long-term care hospital as defined in Section 41-7-173(∗∗∗c) in Harrison County, not to exceed eighty (80) beds, including any necessary renovation or construction required for licensure and certification, provided that the recipient of the certificate of need agrees in writing that the long-term care hospital will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the long-term care hospital who are participating in the Medicaid program. This written agreement by the recipient of the certificate of need shall be fully binding on any subsequent owner of the long-term care hospital, if the ownership of the facility is transferred at any time after the issuance of the certificate of need. Agreement that the long-term care hospital will not participate in the Medicaid program shall be a condition of the issuance of a certificate of need to any person under this subsection (6), and if such long-term care hospital at any time after the issuance of the certificate of need, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the State Department of Health shall
revoke the certificate of need, if it is still outstanding, and shall deny or revoke the license of the long-term care hospital, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the certificate of need was issued, as provided in this subsection and in the written agreement by the recipient of the certificate of need. For purposes of this subsection, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived.

(7) The State Department of Health may issue a certificate of need to any hospital in the state to utilize a portion of its beds for the "swing-bed" concept. Any such hospital must be in conformance with the federal regulations regarding such swing-bed concept at the time it submits its application for a certificate of need to the State Department of Health, except that such hospital may have more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program. Any hospital meeting all federal requirements for participation in the swing-bed program which receives such certificate of need shall render services provided under the swing-bed concept to any patient eligible for Medicare (Title XVIII of the Social Security Act) who is certified by a physician to be in need of such services, and no such hospital shall permit any patient who is
eligible for both Medicaid and Medicare or eligible only for Medicaid to stay in the swing beds of the hospital for more than thirty (30) days per admission unless the hospital receives prior approval for such patient from the Division of Medicaid, Office of the Governor. Any hospital having more licensed beds or a higher average daily census (ADC) than the maximum number specified in federal regulations for participation in the swing-bed program which receives such certificate of need shall develop a procedure to insure that before a patient is allowed to stay in the swing beds of the hospital, there are no vacant nursing home beds available for that patient located within a fifty-mile radius of the hospital. When any such hospital has a patient staying in the swing beds of the hospital and the hospital receives notice from a nursing home located within such radius that there is a vacant bed available for that patient, the hospital shall transfer the patient to the nursing home within a reasonable time after receipt of the notice. Any hospital which is subject to the requirements of the two (2) preceding sentences of this subsection may be suspended from participation in the swing-bed program for a reasonable period of time by the State Department of Health if the department, after a hearing complying with due process, determines that the hospital has failed to comply with any of those requirements.

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

(9) The Department of Health shall not grant approval for or
issue a certificate of need to any person proposing the
establishment of, or expansion of the currently approved territory
of, or the contracting to establish a home office, subunit or
branch office within the space operated as a health care facility
as defined in Section 41-7-173( * * *e)(i) through (viii) by a
health care facility as defined in subparagraph (ix) of Section
41-7-173( * * *e).
(10) Health care facilities owned and/or operated by the state or its agencies are exempt from the restraints in this section against issuance of a certificate of need if such addition or expansion consists of repairing or renovation necessary to comply with the state licensure law. This exception shall not apply to the new construction of any building by such state facility. This exception shall not apply to any health care facilities owned and/or operated by counties, municipalities, districts, unincorporated areas, other defined persons, or any combination thereof.

(11) The new construction, renovation or expansion of or addition to any health care facility defined in subparagraph (ii) (psychiatric hospital), subparagraph (iv) (skilled nursing facility), subparagraph (vi) (intermediate care facility), subparagraph (viii) (intermediate care facility for the intellectually disabled) and subparagraph (x) (psychiatric residential treatment facility) of Section 41-7-173(e) which is owned by the State of Mississippi and under the direction and control of the State Department of Mental Health, and the addition of new beds or the conversion of beds from one category to another in any such defined health care facility which is owned by the State of Mississippi and under the direction and control of the State Department of Mental Health, shall not require the issuance of a certificate of need under Section 41-7-171 et seq.,
notwithstanding any provision in Section 41-7-171 et seq. to the contrary.

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

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

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

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

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

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

For the purposes of this subsection (13), "significant
damage" to a health care facility means damage to the health care
facility requiring an expenditure of at least One Million Dollars
($1,000,000.00).
(14) The State Department of Health shall issue a certificate of need to any hospital which is currently licensed for two hundred fifty (250) or more acute care beds and is located in any general hospital service area not having a comprehensive cancer center, for the establishment and equipping of such a center which provides facilities and services for outpatient radiation oncology therapy, outpatient medical oncology therapy, and appropriate support services including the provision of radiation therapy services. The provisions of Section 41-7-193(1) regarding substantial compliance with the projection of need as reported in the current State Health Plan are waived for the purpose of this subsection.

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

(16) The State Department of Health shall issue any certificates of need necessary for Mississippi State University and a public or private health care provider to jointly acquire and operate a linear accelerator and a magnetic resonance imaging unit. Those certificates of need shall cover all capital expenditures related to the project between Mississippi State University and the health care provider, including, but not limited to, the acquisition of the linear accelerator, the
magnetic resonance imaging unit and other radiological modalities; the offering of linear accelerator and magnetic resonance imaging services; and the cost of construction of facilities in which to locate these services. The linear accelerator and the magnetic resonance imaging unit shall be (a) located in the City of Starkville, Oktibbeha County, Mississippi; (b) operated jointly by Mississippi State University and the public or private health care provider selected by Mississippi State University through a request for proposals (RFP) process in which Mississippi State University selects, and the Board of Trustees of State Institutions of Higher Learning approves, the health care provider that makes the best overall proposal; (c) available to Mississippi State University for research purposes two-thirds (2/3) of the time that the linear accelerator and magnetic resonance imaging unit are operational; and (d) available to the public or private health care provider selected by Mississippi State University and approved by the Board of Trustees of State Institutions of Higher Learning one-third (1/3) of the time for clinical, diagnostic and treatment purposes. For purposes of this subsection, the provisions of Section 41-7-193(1) requiring substantial compliance with the projection of need as reported in the current State Health Plan are waived.

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

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

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

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

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

(2) An application for a certificate of need for * * * a proposal requiring a certificate of need shall specify the time, within that granted, such shall be functional or operational according to a time schedule submitted with the application. Each certificate of need shall specify the maximum amount of capital expenditure that may be obligated. The State Department of Health shall periodically review the progress and time schedule of any person issued or granted a certificate of need for any purpose.
(3) An application for a certificate of need may be filed at any time with the department after the applicant has given the department fifteen (15) days' written notice of its intent to apply for a certificate of need. The department shall not delay review of an application. The department shall make its recommendation approving or disapproving a complete application within forty-five (45) days of the date the application was filed or within fifteen (15) days of receipt of any requested information, whichever is later, * * * the request to be made by the department within fifteen (15) days of the filing of the application.

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

41-7-197. (1) The State Department of Health shall adopt and * * * use procedures for conducting certificate of need reviews. Such procedures shall include, inter alia, the following: (a) written notification to the applicant; (b) written notification to health care facilities in the same health service area as the proposed * * * health care facility; (c) written notification to other persons who * * * before the receipt of the application have filed a formal notice of intent to * * * operate a health care facility in the same service area; and (d) notification to members of the public who reside in the service area where the * * * facility is proposed, which may be provided through newspapers or public information channels.
(2) All notices provided shall include, inter alia, the following: (a) the proposed schedule for the review; (b) written notification of the period within which a public hearing during the course of the review may be requested in writing by one or more affected persons, such request to be made within ten (10) days of the department's staff recommendation for approval or disapproval of an application; and (c) the manner in which notification will be provided of the time and place of any hearing so requested. Any such hearing shall be ** begun by an independent hearing officer designated by the State Department of Health within sixty (60) days of the filing of the hearing request unless all parties to the hearing agree to extend the time for the ** beginning of the hearing. At such hearing, the hearing officer and any person affected by the proposal being reviewed may conduct reasonable questioning of persons who make relevant factual allegations concerning the proposal. The hearing officer shall require that all persons be sworn before they may offer any testimony at the hearing, and the hearing officer is authorized to administer oaths. Any person so choosing may be represented by counsel at the hearing. A record of the hearing shall be made, which shall consist of a transcript of all testimony received, all documents and other material introduced by any interested person, the staff report and recommendation and such other material as the hearing officer considers relevant, including his own recommendation, which he shall make, after reviewing, studying and
analyzing the evidence presented during the hearing, within a reasonable period of time after the hearing is closed, which in no event shall exceed forty-five (45) days. The completed record shall be certified to the State Health Officer, who shall consider only the record in making his decision, and shall not consider any evidence or material * * * that is not included * * * in the record. All final decisions regarding the issuance of a certificate of need shall be made by the State Health Officer. The State Health Officer shall make his or her written findings and issue his or her order after reviewing * * * the record. The findings and decision of the State Health Officer shall not be deferred to any later date.

(3) Unless a hearing is held, if review by the State Department of Health concerning the issuance of a certificate of need is not complete with a final decision issued by the State Health Officer within the time specified by rule or regulation, which shall not exceed ninety (90) days from the filing of the application for a certificate of need, the proponent of the proposal may, within thirty (30) days after the expiration of the specified time for review, * * * begin such legal action as is necessary, in the Chancery Court of the First Judicial District of Hinds County or in the chancery court of the county in which the * * * facility is proposed to be * * * operated, to compel the State Health Officer to issue written findings and written order approving or disapproving the proposal in question.
SECTION 10. Section 41-7-201, Mississippi Code of 1972, is amended as follows:

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

(a) In addition to other remedies now available at law or in equity, any party aggrieved by any such final order of the State Department of Health shall have the right of appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi, which appeal must be filed within thirty (30) days after the date of the final order. However, any appeal of an order disapproving an application for such a certificate of need may be made to the chancery court of the county where the proposed construction, expansion or alteration was to be located. Such appeal must be filed in accordance with the thirty (30) days for filing as provided in this paragraph. Any appeal shall state briefly the nature of the proceedings before the State Department of Health and shall specify the order complained of. Any appeal shall state briefly the nature of the proceedings before the State Department of Health and shall specify the order complained of. Any person whose rights may be materially affected by the action of the State Department of Health may appear and become a party or the court
may, upon motion, order that any such person, organization or
entity be joined as a necessary party.

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

(c) The court may dispose of the appeal in termtine or
vacation and may sustain or dismiss the appeal, modify or vacate
the order complained of, in whole or in part, as the case may be;
but in case the order is wholly or partly vacated, the court may
also, in its discretion, remand the matter to the State Department
of Health for such further proceedings, not inconsistent with the
court's order, as, in the opinion of the court, justice may
require. The order shall not be vacated or set aside, either in
whole or in part, except for errors of law, unless the court finds
that the order of the State Department of Health is not supported
by substantial evidence, is contrary to the manifest weight of the
evidence, is in excess of the statutory authority or jurisdiction of the State Department of Health, or violates any vested constitutional rights of any party involved in the appeal. ** **

However, an order of the chancery court reversing the denial of a certificate of need by the State Department of Health shall not entitle the applicant to effectuate the certificate of need until either:

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

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

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

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

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

(b) In addition to other remedies now available at law or in equity, any party aggrieved by such final order of the State Department of Health shall have the right of appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi, which appeal must be filed within twenty (20) days after the date of the final order. * * * However, * * * any appeal of an order disapproving an application for such a certificate of need may be made to the chancery court of the county where the proposed construction, expansion or alteration was to be located * * *. Such appeal must be filed in accordance with the twenty (20) days for filing as * * * provided in this paragraph. Any appeal shall state briefly the nature of the proceedings before the State Department of Health and shall specify the order complained of.
Upon the filing of such an appeal, the clerk of the chancery court shall serve notice thereof upon the State Department of Health, whereupon the State Department of Health shall, within thirty (30) days of the date of the filing of the appeal, certify to the chancery court the record in the case, which records shall include a transcript of all testimony, together with all exhibits or copies thereof, all proceedings, orders, findings and opinions entered in the case; however, the parties and the State Department of Health may stipulate that a specified portion only of the record shall be certified to the court as the record on appeal. The chancery court shall give preference to any such appeal from a final order by the State Department of Health in a certificate of need proceeding, and shall render a final order regarding such appeal no later than one hundred twenty (120) days from the date of the final order by the State Department of Health. If the chancery court has not rendered a final order within this one-hundred-twenty-day period, then the final order of the State Department of Health shall be deemed to have been affirmed by the chancery court, and any party to the appeal shall have the right to appeal from the chancery court to the Supreme Court on the record certified by the State Department of Health as otherwise provided in paragraph (g) of this subsection. If the chancery court has not rendered a final order within the one-hundred-twenty-day period and an appeal is made to the Supreme
Court as provided * * * in this paragraph, the Supreme Court shall remand the case to the chancery court to make an award of costs, fees, reasonable expenses and attorney's fees incurred in favor of appellee payable by the appellant(s) * * * if the Supreme Court affirms the order of the State Department of Health.

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

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

(f) The court may dispose of the appeal in termtime or vacation and may sustain or dismiss the appeal, modify or vacate the order complained of in whole or in part and may make an award of costs, fees, expenses and attorney's fees, as the case may be; but in case the order is wholly or partly vacated, the court may also, in its discretion, remand the matter to the State Department of Health for such further proceedings, not inconsistent with the court's order, as, in the opinion of the court, justice may require. The court, as part of the final order, shall make an award of costs, fees, reasonable expenses and attorney's fees incurred in favor of appellee payable by the appellant(s) * * * if
the court affirms the order of the State Department of Health.

The order shall not be vacated or set aside, either in whole or in part, except for errors of law, unless the court finds that the order of the State Department of Health is not supported by substantial evidence, is contrary to the manifest weight of the evidence, is in excess of the statutory authority or jurisdiction of the State Department of Health, or violates any vested constitutional rights of any party involved in the appeal. * * *

However, an order of the chancery court reversing the denial of a certificate of need by the State Department of Health shall not entitle the applicant to effectuate the certificate of need until either:

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

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

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

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

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

41-7-202. There shall be a "stay of proceedings" of any written decision of the State Department of Health pertaining to a certificate of need for a home health agency, as defined in Section 41-7-173( * * *e)(ix), for a period of thirty (30) days from the date of that decision. The stay of proceedings shall expire at the termination of thirty (30) days; however, no license to operate any such home health agency that is the subject of the decision shall be issued by the licensing agency, and no certification for such home health agency to participate in the Title XVIII or Title XIX programs of the Social Security Act shall be granted until all statutory appeals have been exhausted or the time for such appeals has expired. The stay of proceedings provided for in this section shall not apply to any party appealing any final order of the State Department of Health pertaining to a certificate of need for any health care facility as defined in Section 41-7-173( * * *e), with the exception of any home health agency as defined in Section 41-7-173( * * *e)(ix).

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

41-7-207. Notwithstanding any other provisions of Sections 41-7-171 through 41-7-209, except when the owner of a damaged
health care facility applies to repair or rebuild the facility in accordance with the provisions of Section 41-7-191(13), when the need for any emergency replacement occurs, the certificate of need review process shall be expedited by promulgation of administrative procedures for expenditures necessary to alleviate an emergency condition and restore health care access. Emergency replacement means the replacement, and/or a necessary relocation, of all or the damaged part of the facilities without which the operation of the facility and the health and safety of patients would be immediately jeopardized and health care access would be denied to such patients. Expenditures under this section shall be limited to the replacement of those necessary facilities the loss of which constitutes an emergency; however, in the case of the destruction or major damage to a health care facility, the department shall be authorized to issue a certificate of need to address the current and future health care needs of the community, including, but not limited to, the expansion of the health care facility and/or the relocation of the health care facility. In exercising the authority granted in this section, the department may waive all or part of the required certificate of need application fee for any application filed under this section if the expenditure would create a further hardship or undue burden on the health care facility.

SECTION 13. Section 41-73-5, Mississippi Code of 1972, is amended as follows:
When used in this act, unless the context requires a different definition, the following terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

and

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

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

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

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

(iii) The cost of architectural, engineering, legal and related services; the cost of the preparation of plans, specifications, studies, surveys and estimates of cost and of revenue; all other expenses necessary or incident to planning, providing or determining the need for or the feasibility and practicability of such hospital facilities or the acquisition thereof; and the cost of providing or establishing a reasonable reserve fund for the payment of principal of and interest on bonds;
(iv) The cost of financing charges, including premiums or prepayment penalties, if any, and interest accrued prior to the acquisition and completion or refinancing of such hospital facilities and after such acquisition and completion or refinancing and start-up costs related to hospital facilities;

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

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

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

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

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

(g) "Hospital facility" or "hospital facilities" means
buildings and structures of any and all types used or useful, in
the discretion of the authority, for providing any types of care
to the sick, wounded, infirmed, needy, mentally incompetent or
elderly and shall include, without limiting the generality of the
foregoing, out-patient clinics, laboratories, laundries, nurses',
doctors' or interns' residences, administration buildings, office
buildings, facilities for research directly involved with hospital
care, maintenance, storage or utility facilities, parking lots,
and garages and all necessary, useful, or related furnishings, and
appurtenances and all lands necessary or convenient as a site for
the foregoing.
(h) "Participating hospital institution" or "hospital institution" means a public or private corporation, association, foundation, trust, cooperative, agency, body politic, or other person or organization which provides or operates or proposes to provide or operate hospital facilities not for profit, and which, pursuant to the provisions of this act, contracts with the authority for the financing or refinancing of the lease or other acquisition of hospital equipment or hospital facilities, or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) "Operating" an abortion facility means that the facility is open for any period of time during a day and has on site at the facility or on call a physician licensed to practice in the State of Mississippi available to provide abortions.
An abortion facility may apply to be licensed as a Level I facility or a Level II facility by the licensing agency. Level II abortion facilities shall be required to meet minimum standards for abortion facilities as established by the licensing agency. Level I abortion facilities shall be required to meet minimum standards for abortion facilities and minimum standards for ambulatory surgical facilities as established by the licensing agency.

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

(i) "Freestanding emergency room" is a facility open twenty-four (24) hours a day for the treatment of urgent and emergent medical conditions which is not located on a hospital campus. In order to be eligible for licensure under this chapter, the freestanding emergency room shall be located at least fifteen (15) miles from the nearest hospital-based emergency room in any rural community where the federal CMMS had previously designated a rural hospital as a critical access hospital and that designation has been revoked.
"Post-acute residential brain injury rehabilitation facility" is a facility containing no more than twelve (12) beds providing medically directed long-term but nonacute rehabilitation to patients who have acquired brain injury. In order to be eligible for licensure under this chapter, the post-acute residential brain injury rehabilitation facility shall be located at least twenty-five (25) miles from the nearest acute care rehabilitation hospital and at least five (5) miles from the boundaries of any municipality having a population of ten thousand (10,000) or more, according to the most recent federal decennial census, at the time that facility is established.

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

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

In order to receive a license for a post-acute residential brain injury rehabilitation facility under this chapter, the recipient of the license must agree in writing that the facility will not at any time participate in the Medicaid program (Section 43-13-101 et seq.) or admit or keep any patients in the facility who are participating in the Medicaid program. This written
agreement by the recipient of the license shall be fully binding on any later owner of the facility, if the ownership of the facility is transferred at any time after the issuance of the license. Agreement that the facility will not participate in the Medicaid program shall be a condition of the issuance of a license for a post-acute residential brain injury rehabilitation facility to any person under this chapter, and if such facility at any time after the issuance of the license, regardless of the ownership of the facility, participates in the Medicaid program or admits or keeps any patients in the facility who are participating in the Medicaid program, the licensing agency shall revoke the license of the facility, at the time that the department determines, after a hearing complying with due process, that the facility has failed to comply with any of the conditions upon which the license was issued, as provided in this section and in the written agreement by the recipient of the license.

SECTION 16. Section 41-75-9, Mississippi Code of 1972, is amended as follows: 41-75-9. Upon receipt of an application for license and the license fee, the licensing agency shall issue a license if the applicant and the institutional facilities meet the requirements established under this chapter ** *. A license, unless suspended or revoked, shall be renewable annually upon payment of a renewal fee of Three Thousand Dollars ($3,000.00), which shall be paid to the licensing agency, and upon filing by the licensee and approval
by the licensing agency of an annual report upon such uniform
dates and containing such information in such form as the
licensing agency requires. Each license shall be issued only for
the premises and person or persons named in the application and
shall not be transferable or assignable. Licenses shall be posted
in a conspicuous place on the licensed premises.

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

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

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

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

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

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